



Reprinted
February 13, 2007

HOUSE BILL No. 1483

DIGEST OF HB 1483 (Updated February 12, 2007 7:48 pm - DI 96)

Citations Affected: IC 5-16.

Synopsis: Common construction wage. Empowers the department of labor (department) to enforce the common construction wage law through investigation of alleged violations, imposition of certain remedies, and application for judicial remedies. Forbids retaliation against an individual who acts to assist the enforcement of the common construction wage law. Authorizes the department to adopt administrative rules to implement certain enforcement powers. Reduces from three classes to two skill levels the classification of labor to be employed in the performance of a contract for a public work project. Includes journeymen in the skilled labor level. Replaces the classes of semiskilled labor and unskilled labor with the apprentice labor level and defines apprentice. Provides that persons who have certain relationships with a contractor or subcontractor that violates the law may not be awarded public work contracts for certain periods of time. Provides that an agreement in which a worker agrees to work for less than the common construction wage is void. Authorizes certain persons to maintain a private action on behalf of a worker to recover damages for the contractor's or subcontractor's failure to pay the worker the common construction wage. Provides that violations of the common construction wage law are misdemeanors. Removes from the common construction wage law exceptions under which the law does not apply to: (1) contracts let by the Indiana department of transportation for the construction of highways, streets, and bridges; and (2) certain public work done for Purdue University on agricultural or forestry land owned or occupied by Purdue. Repeals a superseded criminal statute.

Effective: July 1, 2007.

Niezgodski

January 23, 2007, read first time and referred to Committee on Labor and Employment.
February 6, 2007, amended, reported — Do Pass.
February 12, 2007, read second time, amended, ordered engrossed.

HB 1483—LS 7604/DI 75+



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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1483

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

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

- 1 SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Any firm, individual,
3 partnership, limited liability company, or corporation that is awarded
4 a contract by the state, a political subdivision, or a municipal
5 corporation for the construction of a public work, and any
6 subcontractor of the construction, shall pay for each **class level** of work
7 described in subsection (c)(1) on the project a scale of wages that may
8 not be less than the common construction wage.
9 (b) For the purpose of ascertaining what the common construction
10 wage is in the county, the awarding governmental agency, before
11 advertising for the contract, shall set up a committee of five (5) persons
12 as follows:
13 (1) One (1) person representing labor, to be named by the
14 president of the state federation of labor.
15 (2) One (1) person representing industry, to be named by the
16 awarding agency.
17 (3) A third member to be named by the governor.



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

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

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

12 (1) A classification of the labor to be employed in the
 13 performance of the contract for the project, divided, **where**
 14 **applicable**, into the following ~~three (3) classes:~~ **two (2) skill**
 15 **levels:**

16 (A) Skilled labor, **including journeymen.**
 17 (B) ~~Semiskilled labor:~~ **Apprentice labor.**
 18 ~~(C) Unskilled labor.~~

19 (2) The wage per hour to be paid each of the ~~classes:~~ **skill levels.**
 20 The committee is not required to consider information not presented to
 21 the committee at the meeting. IC 5-14-1.5 (open door law) applies to
 22 a meeting of the committee.

23 (d) The rate of wages determined under subsection (c) shall not be
 24 less than the common construction wage for each of the ~~three (3)~~
 25 ~~classes of wages~~ **two (2) skill levels** described in subsection (c) that are
 26 currently being paid in the county where the project is located.

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

31 ~~(f)~~ **(e)** A determination under subsection (c) shall be made and filed
 32 with the awarding agency at least two (2) weeks prior to the date fixed
 33 for the letting, and a copy of the determination shall be furnished upon
 34 request to any person desiring to bid on the contract. The schedule is
 35 open to the inspection of the public.

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

40 ~~(h)~~ **(g)** It shall be a condition of a contract awarded under this
 41 chapter that the successful bidder and all subcontractors shall comply
 42 strictly with **all provisions of this chapter, including** the

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determination made under this section.
~~(i)~~ **(h)** ~~The provisions of This chapter do~~ **does** not apply to public work 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 is applicable to the project.

~~(j)~~ **(i)** Notwithstanding any other law, the provisions of this chapter apply **applies** 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)~~ **(j)** 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). **An awarding agency may not divide a public work project to avoid the application of this chapter to the public work project. In determining whether a public work project violates this subsection, the awarding agency shall consider all of the following:**

- (1) The physical separation of the project structures.**
- (2) The timing of the work on project phases or structures.**
- (3) The continuity of project contractors and subcontractors working on project parts or phases.**
- (4) The manner in which the public body and the contractor and subcontractors administer and implement the project.**

(k) Information submitted to a committee established under this section must be accompanied by a written statement signed by the person or an authorized agent of the person affirming all of the following:

- (1) That the information submitted is accurate and true.**
- (2) That the person is aware that submission of false information is a violation of this chapter and a Class B misdemeanor.**

The committee established under this section may not consider information submitted under this section without the statement required by this subsection.

SECTION 2. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The definitions in this section apply throughout this chapter:

- (1) "Apprentice" means a person:**
 - (A) employed and registered in a bona fide apprenticeship program registered with the United States Department of**

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Labor, Employment and Training Administration, Bureau of Apprenticeship and Training; or

(B) employed in the first ninety (90) days of probationary employment as an apprentice in an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training as eligible for probationary employment as an apprentice.

(2) "Commissioner" refers to the commissioner of labor appointed under IC 22-1-1-2.

(+) (3) "Common construction wage" means a scale of wages for each class level 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.

(4) "Department" refers to the department of labor created by IC 22-1-1-1. The term includes the commissioner, employees of the department, and agents authorized by the commissioner to act on behalf of the department.

(5) "Interested party" means any of the following:

(A) A contractor that submits a bid for the award of a public work contract.

(B) A subcontractor of a contractor described in clause (A).

(C) A labor organization that:

(i) represents workers engaged in the same craft or classification as workers employed by a contractor or subcontractor described in clause (A) or (B); and

(ii) has as a purpose negotiating with employers concerning wages, hours, or terms and conditions of employment for employees.

(D) An association of contractors or subcontractors described in clause (A) or (B).

(-) (6) "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~~ except as otherwise provided in this chapter.

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~~(7)~~ (7) "Municipal corporation" includes:
(A) any county, city, town, or school corporation; ~~as well as~~
and
(B) 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.~~ **an entity**
described in clause (A).

The term also includes a redevelopment commission established
under IC 36-7-14-3.

(8) "Payroll records" means the payroll records that a contractor or subcontractor is required to file under section 2 of this chapter.

~~(9)~~ (9) "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~~ **except** as otherwise provided in this
chapter.

(10) "Records" means any books, documents, papers, payrolls, registers, or other records, in whatever form maintained.

(11) "Worker" means a laborer, mechanic, or worker employed by a contractor or subcontractor on a public work project.

SECTION 3. IC 5-16-7-5 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2007]: 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.

SECTION 4. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2007]: **Sec. 6. (a) The commissioner shall do the following:**

- (1) Enforce the provisions of this chapter.**
- (2) Diligently investigate a complaint of a violation of this chapter.**
- (3) Institute actions for remedies prescribed by this chapter.**

(b) The commissioner may, on behalf of the state, seek judicial

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relief to enjoin:

- (1) the awarding of a contract that would be awarded in violation of this chapter;**
- (2) the beginning of a public work that has or would be begun in violation of this chapter; or**
- (3) the continuation of a public work that is being performed in violation of this chapter.**

(c) At the request of the commissioner or the commissioner's authorized agent, the attorney general or the prosecuting attorney of a county shall prosecute criminal violations of this chapter.

(d) In addition to exercising its powers under IC 22-1-1, the department may do any of the following to enforce this chapter:

- (1) Enter and inspect the place of business or employment of a contractor or subcontractor that has performed or is performing work under a public work contract.**
- (2) Inspect records that relate in any way to the wages, hours, or other conditions of employment of a worker employed by a contractor or subcontractor that has performed or is performing work under a public work contract.**
- (3) Make copies of records inspected under subdivision (2).**
- (4) Question workers to determine compliance with this chapter.**
- (5) Administer oaths.**
- (6) Take depositions.**
- (7) Require, by subpoena, the attendance of witnesses and the production of records to determine compliance with this chapter. The circuit or superior court of the county where a subpoena is served shall enforce the subpoena.**
- (8) Require a contractor or subcontractor to affirm statements regarding wages, hours, names, addresses, and other information relating to the employment of workers that the department considers necessary.**
- (9) Require the state or municipal corporation that awarded the public work contract to withhold not more than twenty-five percent (25%) of the payments to be made to a contractor or subcontractor that has failed to produce records required by the department under this section not later than ten (10) days after the department requested production of the records. Upon production of the requested records, the department shall direct the state or municipal corporation to release money withheld under this subdivision.**
- (10) If a contractor or subcontractor refuses to produce**

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records required by the department under this section, the department shall order the state or municipal corporation that awarded the public work contract to pay directly to the workers employed by the contractor or subcontractor from the amount withheld under subdivision (9) any wages found to be due to those workers under this chapter.

(11) Contract with a certified public accountant to conduct an audit of a contractor, a subcontractor, the state, or a municipal corporation to determine compliance with this chapter.

SECTION 5. IC 5-16-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) As used in this section, "notice of second violation" means a notice of violation that is issued by the department to a contractor or subcontractor within three (3) years after the date on which the department previously issued a notice of violation to the contractor or subcontractor.

(b) As used in this section, "notice of violation" means the department's formal written notice to a contractor or subcontractor that the department has made a determination that the contractor or subcontractor has committed a violation of this chapter.

(c) As used in this section, "violation" refers to any of the following:

- (1) The failure or refusal of a contractor or subcontractor to pay the common construction wage to one (1) or more workers as required by this chapter.
- (2) The failure of a contractor or subcontractor to keep accurate payroll records.
- (3) The failure of a contractor's or subcontractor's payroll records to comply with the requirements of this chapter.
- (4) A failure of a contractor or subcontractor to comply with section 2 of this chapter that is not described in subdivision (2) or (3).
- (5) The refusal of a contractor or subcontractor to submit records or give testimony to the department in response to a subpoena issued under this chapter.
- (6) The refusal of a contractor or subcontractor to permit the department to inspect the contractor's or subcontractor's records as required by this chapter.
- (7) The failure of a contractor or subcontractor to post the common construction wage information as required by this

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- chapter.
- (d) Upon receiving a complaint that this chapter has been violated, the department shall investigate the circumstances described in the complaint. The department may begin an investigation on its own initiative without receiving a complaint.
- (e) When making a determination whether a violation of this chapter has occurred and whether a notice of violation should be issued, the department shall consider all information received and observations made during the investigation.
- (f) A notice of violation must identify the following:
 - (1) The specific violations of this chapter that have occurred.
 - (2) The amount of money the department estimates is in controversy.
- (g) In determining whether a contractor or subcontractor has failed to give the department access to payroll records, the department may rely on the following:
 - (1) All information documented during the investigation.
 - (2) The certified payroll records filed with the awarding agency.
 - (3) Other relevant information.
- (h) Each separate violation must be described in the notice of violation. Each day worked by one (1) worker in violation of this chapter is considered a separate violation.
- (i) After determining that a contractor or subcontractor has violated this chapter, the department shall consider the following when deciding whether to issue a notice of violation:
 - (1) The severity of the violation. The department shall consider the following:
 - (A) Whether the contractor or subcontractor has received two (2) or more notices of violation.
 - (B) Whether the violations are substantive and not merely mathematical, bookkeeping, computer, programming, or other technical errors.
 - (2) The total amount of wages required to be paid under this chapter that have not been paid.
 - (3) The nature and duration of the present violations.
 - (4) The contractor's or subcontractor's history of violations of this chapter. When making an evaluation under this subdivision, the department may not consider violations that occurred more than seven (7) years before the date of a notice of second violation.
 - (5) Whether the contractor or subcontractor has made a good

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faith attempt to do the following:

- (A) File certified payroll records with the awarding agency.**
- (B) Keep accurate records for three (3) years.**
- (C) Produce certified payroll records as required by section 2 of this chapter.**

(6) Whether the contractor or subcontractor has other violations of this chapter.

(j) A notice of violation must contain the following information:

- (1) The name of the contractor or subcontractor alleged to have violated this chapter.**
- (2) An identification of the public work project involved.**
- (3) A specific reference to the provision of this chapter that the contractor or subcontractor is alleged to have violated.**
- (4) A description of the violation.**
- (5) A statement whether the notice is a first notice issued to the contractor or subcontractor or a second notice of violation.**
- (6) A summary of the following:**
 - (A) The rights and responsibilities of the parties involved.**
 - (B) The procedures that will be followed to resolve the allegations.**

(k) The department must send a notice of violation by certified mail addressed to the last known address of the contractor or subcontractor.

SECTION 6. IC 5-16-7-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Any of the following may maintain a private action on behalf of a worker to recover damages for the contractor's or subcontractor's failure to pay the worker the common construction wage required by this chapter:

- (1) The worker.**
- (2) The department.**
- (3) An interested party.**

(b) A person described in subsection (a) who obtains a judgment in an action brought under this section may recover from the contractor or subcontractor both of the following:

- (1) The difference between what was paid to the worker and what the worker was entitled to be paid under this chapter.**
- (2) Liquidated damages calculated at twice the amount determined under subdivision (1).**

(c) In addition to money awarded under subsection (b), the

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1 court shall impose on the contractor or subcontractor a penalty of
2 twenty percent (20%) of the amount determined under subsection
3 (b)(1). In case of a notice of second violation, the court shall impose
4 on the contractor or subcontractor a penalty of fifty percent (50%)
5 of the amount determined under subsection (b)(1). A penalty
6 imposed under this subsection shall be paid to the department.

7 (d) A person other than the worker who maintains an action
8 under this section for a worker holds any amounts recovered under
9 subsection (b)(1) and (b)(2) in trust for the worker. If the worker
10 for whom amounts are held in trust under this subsection does not
11 claim the money not later than one (1) year after the money is paid
12 to the person, the money shall be considered unclaimed property
13 under IC 32-34.

14 (e) In addition to any other relief provided under this section,
15 the court shall award reasonable attorney's fees and costs to the
16 prevailing party.

17 SECTION 7. IC 5-16-7-9 IS ADDED TO THE INDIANA CODE
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
19 1, 2007]: Sec. 9. (a) A person may not cause the discharge of,
20 discipline of, or any discrimination against an individual because
21 of any of the following:

- 22 (1) The individual caused the filing or institution of a
23 proceeding under this chapter.
- 24 (2) The individual has testified or will testify in a proceeding
25 relating to the administration or enforcement of this chapter.
- 26 (3) The individual provides evidence of a violation of this
27 chapter.

28 (b) An individual who believes the individual has been
29 discharged, disciplined, or discriminated against in violation of this
30 section may apply to the department for a review of the discharge,
31 discipline, or discrimination.

32 (c) An individual who seeks review under this section must do
33 the following:

- 34 (1) File an application for review with the department not
35 later than one hundred eighty (180) days after the discharge,
36 discipline, or discrimination in violation of this section has
37 occurred.
- 38 (2) Serve a copy of the application on the person alleged to
39 have violated this section.

40 (d) Upon receiving an application filed under this section, the
41 department shall investigate the circumstances as the department
42 considers appropriate.

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- 1 (e) Upon the request of the individual who filed the application
- 2 or the person alleged to have violated this section, the department
- 3 shall hold a hearing under IC 4-21.5 on the matter.
- 4 (f) After concluding its investigation under subsection (d) and
- 5 hearings held under subsection (e), the department shall make
- 6 findings of fact and conclusions of law.
- 7 (g) If the department finds that a violation of this section has
- 8 occurred, the department shall issue an order requiring the person
- 9 that violated this section to do the following:
- 10 (1) Cease the violation.
- 11 (2) Take whatever action the department considers necessary
- 12 to remedy any injury done to the individual who filed the
- 13 application.
- 14 (h) If the department finds that a violation of this section was
- 15 not committed, the department shall dismiss the application.
- 16 (i) The department may adopt rules under IC 4-22-2 not
- 17 inconsistent with this chapter and IC 4-21.5 to implement this
- 18 section.
- 19 SECTION 8. IC 5-16-7-10 IS ADDED TO THE INDIANA CODE
- 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 21 1, 2007]: Sec. 10. (a) This section applies to the following:
- 22 (1) A contractor or subcontractor that the department has
- 23 found in violation of this chapter at least two (2) times during
- 24 any three (3) year period.
- 25 (2) A person who has an interest in a contractor or
- 26 subcontractor described in subdivision (1).
- 27 (b) For purposes of this section, a person has an interest in a
- 28 contractor or subcontractor if the person is any of the following:
- 29 (1) A partner in the partnership that is the contractor or
- 30 subcontractor.
- 31 (2) An owner or officer of the contractor or subcontractor.
- 32 (3) An agent, an employee, a manager, or a representative of
- 33 the contractor or subcontractor.
- 34 (4) A consultant to the contractor or subcontractor.
- 35 (5) A person who pays a contractor or subcontractor from
- 36 money that the person is paid for performance of work on a
- 37 public work project.
- 38 (c) A person described in subsection (a) may not be considered
- 39 responsible for purposes of awarding a public work contract at any
- 40 time not more than five (5) years after the department has found
- 41 the most recent violation of this chapter described in subsection (a).
- 42 (d) Notwithstanding IC 22-1-1-8(2), the department shall do the

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following:

- (1) Keep a current list of contractors and subcontractors that the department has found in violation of this chapter at least two (2) times during any three (3) year period.
- (2) Publish the list on the department's Internet web site.
- (3) Provide the list at no charge to a state agency or municipal corporation that requests the list.

SECTION 9. IC 5-16-7-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. An agreement:**

- (1) that is made between:
 - (A) an individual who is:
 - (i) a worker for; or
 - (ii) an applicant for employment by; a contractor or subcontractor; and
 - (B) the contractor or subcontractor; and
- (2) that provides for the worker or individual to work for the contractor or subcontractor on a public work project for a wage lower than the applicable common construction wage; is void.

SECTION 10. IC 5-16-7-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 12. A contractor or subcontractor who knowingly or intentionally does either of the following commits a Class B misdemeanor:**

- (1) Fails to pay the rate of wages determined under this chapter.
- (2) Fails to comply with an order issued under this chapter.

SECTION 11. IC 5-16-7-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 13. (a) This section does not apply to an agent or a representative of a labor organization collecting the dues or assessments of the labor organization.**

(b) A person who knowingly or intentionally:

- (1) asks for or receives money or any other property from a worker before or after the worker is employed to work on a public work project; and
- (2) represents, states, or implies that the worker's failure to pay the money or give the property will prevent the worker from obtaining or retaining employment on the public work project;

commits a Class A misdemeanor.

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1 **(c) It is not a defense to a prosecution under this section that the**
2 **worker agreed to give the money or the property to the person.**
3 SECTION 12. IC 5-16-7-14 IS ADDED TO THE INDIANA CODE
4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2007]: **Sec. 14. (a) A person who knowingly or intentionally**
6 **violates this chapter commits a Class B misdemeanor.**
7 **(b) Failure to comply with this chapter is a violation of this**
8 **chapter.**
9 SECTION 13. IC 5-16-7-3 IS REPEALED [EFFECTIVE JULY 1,
10 2007].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1483, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, strike "class" and insert "**level**".

Page 2, line 13, delete "divided" and insert "divided, **where applicable**".

Page 2, line 14, strike "three (3) classes:" and insert "**two (2) skill levels**".

Page 2, line 15, delete "labor." and insert "labor, **including journeymen**".

Page 2, line 16, strike "Semiskilled labor." and insert "**Apprentice labor**".

Page 2, strike line 17.

Page 2, line 18, strike "classes." and insert "**skill levels**".

Page 2, line 23, strike "three (3)".

Page 2, line 24, strike "classes of wages" and insert "**two (2) skill levels**".

Page 2, line 26, strike "(e)".

Page 2, line 28, strike "IC 8-23-9 applies to state highway".

Page 2, strike line 29.

Page 2, line 30, strike "(f)" and insert "**(e)**".

Page 2, line 35, strike "(g)" and insert "**(f)**".

Page 2, line 37, strike "(f)," and insert "**(e)**".

Page 2, line 39, strike "(h)" and insert "**(g)**".

Page 3, line 1, strike "(i)" and insert "**(h)**".

Page 3, line 7, strike "(j)" and insert "**(i)**".

Page 3, line 12, strike "(k)" and insert "**(j)**".

Page 3, line 14, delete "If the commissioner determines".

Page 3, line 15, delete "that an" and insert "**An**".

Page 3, line 15, delete "has divided" and insert "**may not divide**".

Page 3, line 16, after "project" delete ", the" and insert ".".

Page 3, delete line 17.

Page 3, line 18, delete "chapter".

Page 3, line 18, delete "making a determination" and insert "**determining**".

Page 3, line 18, delete "an awarding agency".

Page 3, line 19, delete "has divided".

Page 3, line 19, delete "to avoid the application of this".

Page 3, line 20, delete "chapter to the public work project, the

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commissioner" and insert "**violates this subsection, the awarding agency**".

Page 3, line 28, delete "(l)" and insert "**(k)**".

Page 3, delete lines 39 through 42.

Delete page 4.

Page 5, delete lines 1 through 23.

Page 5, between lines 26 and 27, begin a new line block indented and insert:

(1) "Apprentice" means a person:

(A) employed and registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training; or

(B) employed in the first ninety (90) days of probationary employment as an apprentice in an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training as eligible for probationary employment as an apprentice."

Page 5, line 27, delete "(1)" and insert "**(2)**".

Page 5, line 29, delete "(2)" and insert "**(3)**".

Page 5, line 30, strike "class" and insert "**level**".

Page 5, line 39, delete "(3)" and insert "**(4)**".

Page 6, delete lines 1 through 17.

Page 11, delete lines 4 through 42.

Page 12, delete lines 1 through 2.

Page 12, line 3, delete "IC 5-16-7-9" and insert "IC 5-16-7-8".

Page 12, line 5, delete "Sec. 9." and insert "**Sec. 8.**".

Page 13, line 5, delete "IC 5-16-7-10" and insert "IC 5-16-7-9".

Page 13, line 7, delete "Sec. 10." and insert "**Sec. 9.**".

Page 13, line 36, delete "IC 5-16-7-11" and insert "IC 5-16-7-10".

Page 13, line 38, delete "Sec. 11." and insert "**Sec. 10.**".

Page 14, line 7, delete "IC 5-16-7-12" and insert "IC 5-16-7-11".

Page 14, line 9, delete "Sec. 12." and insert "**Sec. 11.**".

Page 14, line 15, delete "IC 6-16-7-13" and insert "IC 5-16-7-12".

Page 14, line 17, delete "Sec. 13." and insert "**Sec. 12.**".

Page 14, line 31, delete "IC 5-16-7-14" and insert "IC 5-16-7-13".

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Page 14, line 33, delete "Sec. 14." and insert "**Sec. 13.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1483 as introduced.)

CHENEY, Chair

Committee Vote: yeas 6, nays 5.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1483 be amended to read as follows:

Page 3, line 40, delete "Apprentice" and insert "**Apprentice**".

Page 4, between lines 24 and 25, begin a new line block indented and insert:

"(5) "Interested party" means any of the following:

(A) A contractor that submits a bid for the award of a public work contract.

(B) A subcontractor of a contractor described in clause (A).

(C) A labor organization that:

(i) represents workers engaged in the same craft or classification as workers employed by a contractor or subcontractor described in clause (A) or (B); and

(ii) has as a purpose negotiating with employers concerning wages, hours, or terms and conditions of employment for employees.

(D) An association of contractors or subcontractors described in clause (A) or (B)."

Page 4, line 25, delete "(5)" and insert "**(6)**".

Page 4, line 29, delete "(6)" and insert "**(7)**".

Page 4, line 38, delete "(7)" and insert "**(8)**".

Page 4, line 41, delete "(8)" and insert "**(9)**".

Page 5, line 4, delete "(9)" and insert "**(10)**".

Page 5, line 6, delete "(10)" and insert "**(11)**".

Page 7, line 32, delete "investigate" and insert "**investigation**".

Page 9, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 6. IC 5-16-7-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) Any of the following may maintain a private**

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action on behalf of a worker to recover damages for the contractor's or subcontractor's failure to pay the worker the common construction wage required by this chapter:

- (1) The worker.
- (2) The department.
- (3) An interested party.

(b) A person described in subsection (a) who obtains a judgment in an action brought under this section may recover from the contractor or subcontractor both of the following:

- (1) The difference between what was paid to the worker and what the worker was entitled to be paid under this chapter.
- (2) Liquidated damages calculated at twice the amount determined under subdivision (1).

(c) In addition to money awarded under subsection (b), the court shall impose on the contractor or subcontractor a penalty of twenty percent (20%) of the amount determined under subsection (b)(1). In case of a notice of second violation, the court shall impose on the contractor or subcontractor a penalty of fifty percent (50%) of the amount determined under subsection (b)(1). A penalty imposed under this subsection shall be paid to the department.

(d) A person other than the worker who maintains an action under this section for a worker holds any amounts recovered under subsection (b)(1) and (b)(2) in trust for the worker. If the worker for whom amounts are held in trust under this subsection does not claim the money not later than one (1) year after the money is paid to the person, the money shall be considered unclaimed property under IC 32-34.

(e) In addition to any other relief provided under this section, the court shall award reasonable attorney's fees and costs to the prevailing party."

Page 9, line 11, delete "IC 5-16-7-8" and insert "IC 5-16-7-9".

Page 9, line 13, delete "Sec. 8." and insert "**Sec. 9.**".

Page 10, line 13, delete "IC 5-16-7-9" and insert "IC 5-16-7-10".

Page 10, line 15, delete "Sec. 9." and insert "**Sec. 10.**".

Page 11, line 2, delete "IC 5-16-7-10" and insert "IC 5-16-7-11".

Page 11, line 4, delete "Sec. 10." and insert "**Sec. 11.**".

Page 11, line 12, after "for" insert "**a**".

Page 11, line 15, delete "IC 5-16-7-11" and insert "IC 5-16-7-12".

Page 11, line 17, delete "Sec. 11." and insert "**Sec. 12.**".

Page 11, line 23, delete "IC 5-16-7-12" and insert "IC 5-16-7-13".

Page 11, line 25, delete "Sec. 12." and insert "**Sec. 13.**".

Page 11, line 39, delete "IC 5-16-7-13" and insert "IC 5-16-7-14".

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Page 11, line 41, delete "Sec. 13." and insert "**Sec. 14.**".
Re-number all SECTIONS consecutively.

(Reference is to HB 1483 as printed February 7, 2007.)

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