
HOUSE BILL No. 1729

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28-17; IC 22-4.

Synopsis: Various economic development matters. Requires the Indiana economic development corporation (IEDC) to biennially review state and local economic development incentives to determine whether: (1) small businesses are eligible for the incentives; (2) small businesses can easily access and participate in the incentives; and (3) any incentives should be modified to make small businesses eligible for the incentives. Requires the IEDC to biennially submit a report to the legislative council. Requires the IEDC to conduct at least one public hearing to receive comments from owners and employees of small businesses. Authorizes the IEDC to: (1) solicit information and comments from small business owners and other individuals and entities; and (2) pay travel expenses, per diem, and expert witness fees. Reduces from 2.7% to 1% new employer contribution rates to the unemployment compensation system when the unemployment insurance benefit fund reaches a specified reserve amount. Appropriates \$1,000,000 to the IEDC from the state general fund to provide technical and financial assistance to small businesses that engage in global commerce. Appropriates \$1,000,000 to the IEDC from the state general fund to assist the small business development center in the operation of the small business development center network.

Effective: Upon passage; July 1, 2007.

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January 26, 2007, read first time and referred to Committee on Government and Regulatory Reform.

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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. 1729



A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

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

1 SECTION 1. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION
2 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2007]: Sec. 1. (a) The corporation shall do the following to carry out
4 this chapter:

- 5 (1) Contribute to the strengthening of the economy of Indiana by
- 6 encouraging the organization and development of new business
- 7 enterprises, including technologically oriented enterprises.
- 8 (2) Submit an annual report to the governor and to the general
- 9 assembly not later than November 1 of each year. The annual
- 10 report must:

 - 11 (A) include detailed information on the structure, operation,
 - 12 and financial status of the corporation; and
 - 13 (B) be in an electronic format under IC 5-14-6.

14 The board shall conduct an annual public hearing to receive
15 comment from interested parties regarding the annual report, and
16 notice of the hearing shall be given at least fourteen (14) days
17 before the hearing in accordance with IC 5-14-1.5-5(b).



- 1 (3) Approve and administer loans from the microenterprise
- 2 partnership program fund established by IC 5-28-18.
- 3 (4) Conduct activities for nontraditional entrepreneurs under
- 4 IC 5-28-18.
- 5 (5) Establish and administer the small and minority business
- 6 financial assistance program under IC 5-28-20.
- 7 (6) Establish and administer the microenterprise partnership
- 8 program under IC 5-28-19.
- 9 **(7) Conduct the biennial review and submit the biennial**
- 10 **report required by section 3 of this chapter.**
- 11 (b) The corporation may do the following to carry out this chapter:
- 12 (1) Receive money from any source, enter into contracts, and
- 13 expend money for any activities appropriate to its purpose.
- 14 (2) Do all other things necessary or incidental to carrying out the
- 15 corporation's functions under this chapter.
- 16 (3) Establish programs to identify entrepreneurs with marketable
- 17 ideas and to support the organization and development of new
- 18 business enterprises, including technologically oriented
- 19 enterprises.
- 20 (4) Conduct conferences and seminars to provide entrepreneurs
- 21 with access to individuals and organizations with specialized
- 22 expertise.
- 23 (5) Establish a statewide network of public, private, and
- 24 educational resources to assist the organization and development
- 25 of new enterprises.
- 26 (6) Operate a small business assistance center to provide small
- 27 businesses, including minority owned businesses and businesses
- 28 owned by women, with access to managerial and technical
- 29 expertise and to provide assistance in resolving problems
- 30 encountered by small businesses.
- 31 (7) Cooperate with public and private entities, including the
- 32 Indiana Small Business Development Center Network and the
- 33 federal government marketing program, in exercising the powers
- 34 listed in this subsection.
- 35 (8) Establish and administer the small and minority business
- 36 financial assistance program under IC 5-28-20.
- 37 (9) Approve and administer loans from the microenterprise
- 38 partnership program fund established by IC 5-28-18.
- 39 (10) Coordinate state funded programs that assist the organization
- 40 and development of new enterprises.

41 SECTION 2. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2007]: **Sec. 3. (a) The corporation shall biennially do the**
2 **following:**

3 **(1) Review all state and local economic development**
4 **incentives and determine the following:**

5 **(A) Whether small businesses are eligible for the**
6 **incentives.**

7 **(B) Whether small businesses can easily access and**
8 **participate in the incentives for which they are eligible.**

9 **(C) Whether any incentives should be modified to make**
10 **some or all small businesses eligible for the incentives. In**
11 **the report required by subdivision (2), the corporation**
12 **must state the reasons why incentives should be modified**
13 **or should not be modified to make small businesses eligible**
14 **for the incentives.**

15 **(2) Submit a report on the review required by subdivision (1)**
16 **to the governor and the legislative council before November**
17 **1, 2007, and November 1 of every odd-numbered year**
18 **thereafter. The report submitted to the legislative council**
19 **must be in an electronic format under IC 5-14-6.**

20 **(b) The corporation shall conduct at least one (1) public hearing**
21 **to receive comments regarding the corporation's review under**
22 **subsection (a) from owners and employees of small businesses.**

23 **(c) The corporation may do the following in meeting the**
24 **requirements of subsection (a):**

25 **(1) Solicit information and comments from:**

26 **(A) small business owners and other private individuals**
27 **and entities;**

28 **(B) tax policy experts; and**

29 **(C) any other source considered appropriate by the**
30 **corporation.**

31 **(2) Pay any travel expenses, per diem, and expert witness fees**
32 **for individuals or entities providing information under**
33 **subdivision (1).**

34 SECTION 3. IC 22-4-10-3, AS AMENDED BY P.L.108-2006,
35 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 UPON PASSAGE]: Sec. 3. Except as provided in section 1(b) through
37 1(e) of this chapter, each employer shall pay contributions equal to five
38 and six-tenths percent (5.6%) of wages, except as otherwise provided
39 in IC 22-4-11-2, **IC 22-4-11-2.5**, IC 22-4-11-3, IC 22-4-11.5, and
40 IC 22-4-37-3.

41 SECTION 4. IC 22-4-10-6, AS AMENDED BY P.L.108-2006,
42 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 6. (a) When:
 2 (1) an employing unit (whether or not an employing unit at the
 3 time of the acquisition) becomes an employer under
 4 IC 22-4-7-2(a);
 5 (2) an employer acquires the organization, trade, or business, or
 6 substantially all the assets of another employer; or
 7 (3) an employer transfers all or a portion of the employer's trade
 8 or business (including the employer's workforce) to another
 9 employer as described in IC 22-4-11.5-7;
 10 the successor employer shall, in accordance with the rules prescribed
 11 by the department, assume the position of the predecessor with respect
 12 to all the resources and liabilities of the predecessor's experience
 13 account.
 14 (b) Except as provided by IC 22-4-11.5, when:
 15 (1) an employing unit (whether or not an employing unit at the
 16 time of the acquisition) becomes an employer under
 17 IC 22-4-7-2(b); or
 18 (2) an employer acquires a distinct and segregable portion of the
 19 organization, trade, or business within this state of another
 20 employer;
 21 the successor employer shall assume the position of the predecessor
 22 employer with respect to the portion of the resources and liabilities of
 23 the predecessor's experience account as pertains to the distinct and
 24 segregable portion of the predecessor's organization, trade, or business
 25 acquired by the successor. An application for the acquiring employer
 26 to assume this portion of the resources and liabilities of the disposing
 27 employer's experience account must be filed with the department on
 28 prescribed forms not later than thirty (30) days immediately following
 29 the disposition date or not later than ten (10) days after the disposing
 30 and acquiring employers are mailed or otherwise delivered final notice
 31 that the acquiring employer is a successor employer, whichever is the
 32 earlier date. This portion of the resources and liabilities of the
 33 disposing employer's experience account shall be transferred in
 34 accordance with IC 22-4-11.5.
 35 (c) Except as provided by IC 22-4-11.5, the successor employer, if
 36 an employer prior to the acquisition, shall pay at the rate of
 37 contribution originally assigned to it for the calendar year in which the
 38 acquisition occurs, until the end of that year. If not an employer prior
 39 to the acquisition, the successor employer shall pay the rate of two and
 40 seven-tenths percent (2.7%) **or the rate determined under**
 41 **IC 22-4-11-2.5, if applicable**, unless the successor employer assumes
 42 all or part of the resources and liabilities of the predecessor employer's

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1 experience account, in which event the successor employer shall pay
 2 at the rate of contribution assigned to the predecessor employer for the
 3 period starting with the first day of the calendar quarter in which the
 4 acquisition occurs, until the end of that year. However, if a successor
 5 employer, not an employer prior to the acquisition, simultaneously
 6 acquires all or part of the experience balance of two (2) or more
 7 employers, the successor employer shall pay at the highest rate
 8 applicable to the experience accounts totally or partially acquired for
 9 the period starting with the first day of the calendar quarter in which
 10 the acquisition occurs, until the end of the year. If the successor
 11 employer had any employment prior to the date of acquisition upon
 12 which contributions were owed under IC 22-4-9-1, the employer's rate
 13 of contribution from the first of the year to the first day of the calendar
 14 quarter in which the acquisition occurred would be two and
 15 seven-tenths percent (2.7%) **or the rate determined under**
 16 **IC 22-4-11-2.5, if applicable.**

17 SECTION 5. IC 22-4-10.5-4 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Skills 2016
 19 training assessments accrue and are payable by each employer under
 20 section 3 of this chapter for each calendar year in which the employer
 21 is subject to IC 22-4-10-1 with respect to wages for employment.

22 (b) Skills 2016 training assessments are due and payable to the
 23 department by each employer for the purposes set forth in section 2 of
 24 this chapter and are not deductible, in whole or in part, from the wages
 25 of individuals in the service of the employer.

26 (c) Skills 2016 training assessments paid under this chapter:
 27 (1) shall not be credited to the employer's experience account; and
 28 (2) do not affect the computation of an employer's contribution
 29 rate under IC 22-4-11-2 **or IC 22-4-11-2.5.**

30 SECTION 6. IC 22-4-11-2, AS AMENDED BY P.L.108-2006,
 31 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the
 33 department shall for each year determine the contribution rate
 34 applicable to each employer.

35 (b) The balance shall include contributions with respect to the
 36 period ending on the computation date and actually paid on or before
 37 July 31 immediately following the computation date and benefits
 38 actually paid on or before the computation date and shall also include
 39 any voluntary payments made in accordance with IC 22-4-10-5:

40 (1) for each calendar year, an employer's rate shall be determined
 41 in accordance with the rate schedules in section 3 or 3.3 of this
 42 chapter; and

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1 (2) for each calendar year, an employer's rate shall be two and
2 seven-tenths percent (2.7%), except as otherwise provided in
3 **section 2.5 of this chapter or IC 22-4-37-3**, unless and until:

4 (A) the employer has been subject to this article throughout
5 the thirty-six (36) consecutive calendar months immediately
6 preceding the computation date; and

7 (B) there has been some annual payroll in each of the three (3)
8 twelve (12) month periods immediately preceding the
9 computation date.

10 (c) In addition to the conditions and requirements set forth and
11 provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall
12 not be less than five and six-tenths percent (5.6%) unless all required
13 contribution and wage reports have been filed within thirty-one (31)
14 days following the computation date and all contributions, penalties,
15 and interest due and owing by the employer or the employer's
16 predecessors for periods prior to and including the computation date
17 have been paid:

18 (1) within thirty-one (31) days following the computation date; or

19 (2) within ten (10) days after the department has given the
20 employer a written notice by registered mail to the employer's last
21 known address of:

22 (A) the delinquency; or

23 (B) failure to file the reports;

24 whichever is the later date.

25 The board or the board's designee may waive the imposition of rates
26 under this subsection if the board finds the employer's failure to meet
27 the deadlines was for excusable cause. The department shall give
28 written notice to the employer before this additional condition or
29 requirement shall apply.

30 (d) However, if the employer is the state or a political subdivision
31 of the state or any instrumentality of a state or a political subdivision,
32 or any instrumentality which is wholly owned by the state and one (1)
33 or more other states or political subdivisions, the employer may
34 contribute at a rate of one percent (1%) until it has been subject to this
35 article throughout the thirty-six (36) consecutive calendar months
36 immediately preceding the computation date.

37 (e) On the computation date every employer who had taxable wages
38 in the previous calendar year shall have the employer's experience
39 account charged with the amount determined under the following
40 formula:

41 STEP ONE: Divide:

42 (A) the employer's taxable wages for the preceding calendar

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- 1 year; by
 2 (B) the total taxable wages for the preceding calendar year.
 3 STEP TWO: Multiply the quotient determined under STEP ONE
 4 by the total amount of benefits charged to the fund under section
 5 1 of this chapter.
 6 (f) One (1) percentage point of the rate imposed under subsection
 7 (c) or the amount of the employer's payment that is attributable to the
 8 increase in the contribution rate, whichever is less, shall be imposed as
 9 a penalty that is due and shall be deposited upon collection into the
 10 special employment and training services fund established under
 11 IC 22-4-25-1. The remainder of the contributions paid by an employer
 12 pursuant to the maximum rate shall be:
 13 (1) considered a contribution for the purposes of this article; and
 14 (2) deposited in the unemployment insurance benefit fund
 15 established under IC 22-4-26.
 16 SECTION 7. IC 22-4-11-2.5 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: **Sec. 2.5. (a) This section applies to the**
 19 **determination of contribution rates for a calendar year in which**
 20 **the balance in the fund as of the determination date is at least:**
 21 (1) **an amount sufficient for Schedule B to apply as the**
 22 **schedule of rates, as determined under section 3 of this**
 23 **chapter; plus**
 24 (2) **an amount that maintains the fund ratio (as determined by**
 25 **section 3 of this chapter) at the lowest percentage required for**
 26 **Schedule B to apply after the reduced contribution rate**
 27 **described in subsection (b) is implemented.**
 28 (b) **Except as otherwise provided in IC 22-4-11.5 or**
 29 **IC 22-4-37-3, the contribution rate for an employer that would**
 30 **otherwise pay the contribution rate under section 2(b)(2) of this**
 31 **chapter is one percent (1%) rather than the contribution rate**
 32 **determined under section 2(b)(2) of this chapter.**
 33 (c) **If this section is used to determine employer contribution**
 34 **rates for a calendar year, for each subsequent calendar year the**
 35 **contribution rate for an employer that would otherwise pay the**
 36 **contribution rate under section 2(b)(2) of this chapter is one**
 37 **percent (1%) rather than the contribution rate determined under**
 38 **section 2(b)(2) of this chapter, except as otherwise provided in**
 39 **IC 22-4-11.5 or IC 22-4-37-3, unless and until:**
 40 (1) **the employer has been subject to this article throughout**
 41 **the thirty-six (36) consecutive calendar months immediately**
 42 **preceding the computation date; and**

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1 (2) there has been some annual payroll in each of the three (3)
2 twelve (12) month periods immediately preceding the
3 computation date.

4 (d) This section expires July 1, 2012.

5 SECTION 8. IC 22-4-37-3, AS AMENDED BY P.L.108-2006,
6 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: Sec. 3. (a) Should:

8 (1) the Congress of the United States amend, repeal, or authorize
9 the implementation of a demonstration project under 29 U.S.C. 49
10 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26
11 U.S.C. 3101 through 3504, or any statute or statutes supplemental
12 to or in lieu thereof or any part or parts of said statutes, or should
13 any or all of said statutes or any part or parts thereof be held
14 invalid, to the end and with such effect that appropriations of
15 funds by the said Congress and grants thereof to the state for the
16 payment of costs of administration of the department are or no
17 longer shall be available for such purposes;

18 (2) the primary responsibility for the administration of 26 U.S.C.
19 3301 through 26 U.S.C. 3311 be transferred to the state as a
20 demonstration project authorized by Congress; or

21 (3) employers in Indiana subject to the payment of tax under 26
22 U.S.C. 3301 through 3311 be granted full credit upon such tax for
23 contributions or taxes paid to the department;

24 then, beginning with the effective date of such change in liability for
25 payment of such federal tax and for each year thereafter, the normal
26 contribution rate under this article shall be established by the
27 department and may not exceed three and one-half percent (3.5%) per
28 year of each employer's payroll subject to contribution. With respect to
29 each employer having a rate of contribution for such year pursuant to
30 terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B),
31 IC 22-4-11-2(c), **IC 22-4-11-2.5**, IC 22-4-11-3, IC 22-4-11-3.3, and
32 IC 22-4-11.5, to the rate of contribution, as determined for such year in
33 which such change occurs, shall be added not more than eight-tenths
34 percent (0.8%) as prescribed by the department.

35 (b) The amount of the excess of tax for which such employer is or
36 may become liable by reason of this section over the amount which
37 such employer would pay or become liable for except for the provisions
38 of this section, together with any interest or earnings thereon, shall be
39 paid and transferred into the employment and training services
40 administration fund to be disbursed and paid out under the same
41 conditions and for the same purposes as is other money provided to be
42 paid into such fund. If the commissioner shall determine that as of

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1 January 1 of any year there is an excess in said fund over the money
2 and funds required to be disbursed therefrom for the purposes thereof
3 for such year, then and in such cases an amount equal to such excess,
4 as determined by the commissioner, shall be transferred to and become
5 part of the unemployment insurance benefit fund, and such funds shall
6 be deemed to be and are hereby appropriated for the purposes set out
7 in this section.

8 SECTION 9. [EFFECTIVE UPON PASSAGE] IC 22-4-10-3,
9 IC 22-4-10-6, IC 22-4-10.5-4, IC 22-4-11-2, and IC 22-4-37-3, all as
10 amended by this act, and IC 22-4-11-2.5, as added by this act, apply
11 to the determination of rates of employer contributions to the
12 unemployment compensation system for calendar years beginning
13 after December 31, 2007.

14 SECTION 10. [EFFECTIVE JULY 1, 2007] (a) There is
15 appropriated to the Indiana economic development corporation
16 one million dollars (\$1,000,000) from the state general fund for the
17 period beginning July 1, 2007, and ending June 30, 2009, for its use
18 in providing technical and financial assistance to small businesses
19 (as defined in IC 4-22-2.1-4) that engage in global commerce.

20 (b) This SECTION expires June 30, 2009.

21 SECTION 11. [EFFECTIVE JULY 1, 2007] (a) There is
22 appropriated to the Indiana economic development corporation
23 one million dollars (\$1,000,000) from the state general fund for its
24 use in assisting the Indiana small business development center in
25 the operation of the small business development center network,
26 for the period beginning July 1, 2007, and ending June 30, 2009.

27 (b) Money appropriated by this SECTION must be used for the
28 specific purpose described in subsection (a). Money appropriated
29 by this SECTION may not be used to pay the administrative
30 expenses of the Indiana economic development corporation.

31 (c) This SECTION expires June 30, 2009.

32 SECTION 12. An emergency is declared for this act.

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