



January 25, 2008

HOUSE BILL No. 1219

DIGEST OF HB 1219 (Updated January 23, 2008 3:36 pm - DI 96)

Citations Affected: IC 22-4; noncode.

Synopsis: Unemployment insurance. Excludes from remuneration of services, for the purpose of determining income that is deductible from unemployment insurance benefits, compensation made by a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement. Specifies that a person who: (1) accepts an early retirement offer or other compensation offered by an employer to avert or lessen the effect of a layoff or plant closure; and (2) otherwise meets the eligibility requirements; is entitled to receive unemployment insurance benefits in the same amounts, under the same terms, and subject to the same conditions as any other unemployed person. Provides for payment to certain state educational institutions for specific training programs from the special employment and training services fund.

Effective: July 1, 2008.

Tyler, Stilwell, Koch, Austin

January 14, 2008, read first time and referred to Committee on Labor and Employment.
January 24, 2008, amended, reported — Do Pass.

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HB 1219—LS 6691/DI 102+



January 25, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1219

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 22-4-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) "Deductible income"
3 wherever used in this article, means income deductible from the weekly
4 benefit amount of an individual in any week, and shall include, but
5 shall not be limited to:
6 (1) remuneration for services from employing units, whether or
7 not such remuneration is subject to contribution under this article,
8 except as provided in subsection (c);
9 (2) dismissal pay;
10 (3) vacation pay;
11 (4) pay for idle time;
12 (5) holiday pay;
13 (6) sick pay;
14 (7) traveling expenses granted to an individual by an employing
15 unit and not fully accounted for by such individual;
16 (8) net earnings from self-employment;
17 (9) payments in lieu of compensation for services;

HB 1219—LS 6691/DI 102+



1 (10) awards by the national labor relations board of additional
 2 pay, back pay, or for loss of employment; or any such payments
 3 made under an agreement entered into by an employer, a union,
 4 and the National Labor Relations Board; or
 5 (11) payments made to an individual by an employing unit
 6 pursuant to the terms of the Fair Labor Standards Act (Federal
 7 Wage and Hour Law, 29 U.S.C. 201 et seq.).

8 (b) Deductible income shall not include the first three dollars (\$3),
 9 or twenty percent (20%) of the claimant's weekly benefit amount
 10 rounded to the next lowest dollar, whichever is the larger, of
 11 remuneration paid or payable to an individual with respect to any week
 12 by other than ~~his~~ **the individual's** base period employer or employers.

13 (c) For the purpose of deductible income only, remuneration for
 14 services from employing units does not include:

15 (1) bonuses, gifts, or prizes awarded to an employee by an
 16 employing unit; or

17 **(2) compensation made pursuant to a valid negotiated**
 18 **contract or agreement in connection with a layoff or plant**
 19 **closure, without regard to how the compensation is**
 20 **characterized by the contract or agreement.**

21 SECTION 2. IC 22-4-14-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as**
 23 **provided in subsection (b) or (c),** an unemployed individual shall be
 24 eligible to receive benefits with respect to any week only if ~~He~~ **the**
 25 **individual** has made a claim for benefits in accordance with the
 26 provisions of ~~IC 1971, 22-4-17-1~~ hereof: ~~Provided, however, That~~
 27 **IC 22-4-17.**

28 **(b) A person accepting who:**

29 **(1) accepts a layoff** under an inverse seniority clause of a validly
 30 negotiated contract; ~~be and~~

31 **(2) otherwise meets the eligibility requirements established by**
 32 **this article;**

33 **is entitled to ~~all~~ receive benefits in the same amounts, under the**
 34 **same terms, and subject to the same conditions** as any other
 35 unemployed person. ~~under the terms of this article. Provided, That he~~
 36 ~~meets the other requirements of this article.~~

37 **(c) A person who:**

38 **(1) accepts an early retirement offer or other compensation**
 39 **offered by an employer to avert or lessen the effect of a layoff**
 40 **or plant closure; and**

41 **(2) otherwise meets the eligibility requirements established by**
 42 **this article;**

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1 **is entitled to receive benefits in the same amounts, under the same**
 2 **terms, and subject to the same conditions as any other unemployed**
 3 **person.**
 4 SECTION 3. IC 22-4-25-1, AS AMENDED BY P.L.2-2007,
 5 SECTION 293, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) There is created in the state
 7 treasury a special fund to be known as the special employment and
 8 training services fund. All interest on delinquent contributions and
 9 penalties collected under this article, together with any voluntary
 10 contributions tendered as a contribution to this fund, shall be paid into
 11 this fund. The money shall not be expended or available for
 12 expenditure in any manner which would permit their substitution for
 13 (or a corresponding reduction in) federal funds which would in the
 14 absence of said money be available to finance expenditures for the
 15 administration of this article, but nothing in this section shall prevent
 16 said money from being used as a revolving fund to cover expenditures
 17 necessary and proper under the law for which federal funds have been
 18 duly requested but not yet received, subject to the charging of such
 19 expenditures against such funds when received. The money in this fund
 20 shall be used by the board for the payment of refunds of interest on
 21 delinquent contributions and penalties so collected, for the payment of
 22 costs of administration which are found not to have been properly and
 23 validly chargeable against federal grants or other funds received for or
 24 in the employment and training services administration fund, on and
 25 after July 1, 1945. Such money shall be available either to satisfy the
 26 obligations incurred by the board directly, or by transfer by the board
 27 of the required amount from the special employment and training
 28 services fund to the employment and training services administration
 29 fund. ~~No expenditure of this fund shall be made unless and until the~~
 30 ~~board finds that no other funds are available or can properly be used to~~
 31 ~~finance such expenditures, except that expenditures from said fund may~~
 32 ~~be made for the purpose of acquiring lands and buildings or for the~~
 33 ~~erection of buildings on lands so acquired which are deemed necessary~~
 34 ~~by the board for the proper administration of this article.~~ The board
 35 shall order the transfer of such funds or the payment of any such
 36 obligation or expenditure and such funds shall be paid by the treasurer
 37 of state on requisition drawn by the board directing the auditor of state
 38 to issue the auditor's warrant therefor. Any such warrant shall be drawn
 39 by the state auditor based upon vouchers certified by the board or the
 40 commissioner. The money in this fund is hereby specifically made
 41 available to replace within a reasonable time any money received by
 42 this state pursuant to 42 U.S.C. 502, as amended, which, because of

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1 any action or contingency, has been lost or has been expended for
 2 purposes other than or in amounts in excess of those approved by the
 3 bureau of employment security. The money in this fund shall be
 4 continuously available to the board for expenditures in accordance with
 5 the provisions of this section and shall not lapse at any time or be
 6 transferred to any other fund, except as provided in this article. Nothing
 7 in this section shall be construed to limit, alter, or amend the liability
 8 of the state assumed and created by IC 22-4-28, or to change the
 9 procedure prescribed in IC 22-4-28 for the satisfaction of such liability,
 10 except to the extent that such liability may be satisfied by and out of the
 11 funds of such special employment and training services fund created
 12 by this section.

13 (b) The board, subject to the approval of the budget agency and
 14 governor, is authorized and empowered to use all or any part of the
 15 funds in the special employment and training services fund for the
 16 purpose of acquiring suitable office space for the department by way
 17 of purchase, lease, contract, or in any part thereof to purchase land and
 18 erect thereon such buildings as the board determines necessary or to
 19 assist in financing the construction of any building erected by the state
 20 or any of its agencies wherein available space will be provided for the
 21 department under lease or contract between the department and the
 22 state or such other agency. The commissioner may transfer from the
 23 employment and training services administration fund to the special
 24 employment and training services fund amounts not exceeding funds
 25 specifically available to the commissioner for that purpose equivalent
 26 to the fair, reasonable rental value of any land and buildings acquired
 27 for its use until such time as the full amount of the purchase price of
 28 such land and buildings and such cost of repair and maintenance
 29 thereof as was expended from the special employment and training
 30 services fund has been returned to such fund.

31 (c) The board may also transfer from the employment and training
 32 services administration fund to the special employment and training
 33 services fund amounts not exceeding funds specifically available to the
 34 commissioner for that purpose equivalent to the fair, reasonable rental
 35 value of space used by the department in any building erected by the
 36 state or any of its agencies until such time as the department's
 37 proportionate amount of the purchase price of such building and the
 38 department's proportionate amount of such cost of repair and
 39 maintenance thereof as was expended from the special employment and
 40 training services fund has been returned to such fund.

41 (d) (b) Whenever the balance in the special employment and
 42 training services fund is deemed excessive by ~~the sixty-six and~~

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1 **two-thirds percent (66 2/3%) of the entire** board, the board shall
 2 order payment into the unemployment insurance benefit fund of the
 3 amount of the special employment and training services fund deemed
 4 to be excessive.

5 ~~(e)~~ **(c)** Subject to the approval of the board **and the availability of**
 6 **funds, on July 1, 2008, and each subsequent July 1,** the
 7 commissioner may ~~use not more than five~~ **shall release:**

8 **(1) one (1)** million dollars ~~(\$5,000,000)~~ during a program year for
 9 **(\$1,000,000) to the** training provided by Ivy Tech Community
 10 College to participants in joint labor and management
 11 apprenticeship programs approved **providers of apprenticeship**
 12 **training approved** by the United States Department of ~~Labor's~~
 13 **Labor, Bureau of Apprenticeship and Training** ~~Of the money~~
 14 allocated for training programs under this subsection, fifty percent
 15 (50%) is designated for industrial programs, and the remaining
 16 fifty (50%) percent is designated for building trade programs.
 17 **that have an educational contract for an apprenticeship**
 18 **technology degree with the state educational institution**
 19 **established under IC 21-22-2-1;**

20 **(2) four million dollars (\$4,000,000) to the training providers**
 21 **of apprenticeship training approved by the United States**
 22 **Department of Labor, Bureau of Apprenticeship and Training**
 23 **that have an educational contract for an apprenticeship**
 24 **technology degree with the state educational institution**
 25 **instituted and incorporated under IC 21-25-2-1; and**

26 **(3) two hundred fifty thousand dollars (\$250,000) for**
 27 **journeyman upgrade training to each of the state educational**
 28 **institutions described in subdivisions (1) and (2).**

29 **Each state educational institution described in this subsection is**
 30 **entitled to keep ten percent (10%) of the funds released under**
 31 **subdivisions (1) through (3) for the payment of costs of**
 32 **administering the funds. On each June 30 following the release of**
 33 **the funds, any funds under subdivisions (1) through (3) not used by**
 34 **the state educational institutions under this subsection shall be**
 35 **returned to the special employment and training services fund.**

36 SECTION 4. [EFFECTIVE JULY 1, 2008] IC 22-4-5-1 and
 37 IC 22-4-14-1, both as amended by this act, apply to initial claims
 38 for unemployment filed for a week that begins after March 1, 2007.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1219, 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 2, line 17, delete "by" and insert "**pursuant to**".

Page 3, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 3. IC 22-4-25-1, AS AMENDED BY P.L.2-2007, SECTION 293, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. ~~No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures; except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article.~~ The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn

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by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund:

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and

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maintenance thereof as was expended from the special employment and training services fund has been returned to such fund:

(d) (b) Whenever the balance in the special employment and training services fund is deemed excessive by ~~the~~ **sixty-six and two-thirds percent (66 2/3%) of the entire** board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) (c) Subject to the approval of the board **and the availability of funds, on July 1, 2008, and each subsequent July 1,** the commissioner may use ~~not more than five~~ **shall release:**

(1) ~~one (1) million dollars (\$5,000,000) during a program year for (\$1,000,000) to the training provided by Ivy Tech Community College to participants in joint labor and management apprenticeship programs approved~~ **providers of apprenticeship training approved** by the United States Department of Labor's **Labor, Bureau of Apprenticeship and Training** ~~Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs that have an educational contract for an apprenticeship technology degree with the state educational institution established under IC 21-22-2-1;~~

(2) ~~four million dollars (\$4,000,000) to the training providers of apprenticeship training approved by the United States Department of Labor, Bureau of Apprenticeship and Training that have an educational contract for an apprenticeship technology degree with the state educational institution instituted and incorporated under IC 21-25-2-1; and~~

(3) ~~two hundred fifty thousand dollars (\$250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).~~

Each state educational institution described in this subsection is entitled to keep ten percent (10%) of the funds released under subdivisions (1) through (3) for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds under subdivisions (1) through (3) not used by

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the state educational institutions under this subsection shall be returned to the special employment and training services fund."

Page 3, line 6, delete "June 30, 2008." and insert "**March 1, 2007.**".

and when so amended that said bill do pass.

(Reference is to HB 1219 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 5, nays 3.

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