

Adopted Rejected

COMMITTEE REPORT

YES: 8
NO: 5

MR. SPEAKER:

Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1450, 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:

- 1 Page 1, line 3, after "unemployed" insert "**part-totally**
- 2 **unemployed**".
- 3 Page 1, between lines 11 and 12, begin a new paragraph and insert:
- 4 "SECTION 2. IC 22-4-3-4 IS ADDED TO THE INDIANA CODE
- 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 6 1, 2011]: **Sec. 4. (a) An individual is not totally unemployed,**
- 7 **part-totally unemployed, or partially unemployed for any week in**
- 8 **which the department finds that the individual is:**
- 9 (1) on a vacation week; and
- 10 (2) receiving, or has received, remuneration from the
- 11 employer for that week.
- 12 (b) Subsection (a) does not apply to an individual whose
- 13 employer fails to comply with a department rule or policy
- 14 regarding the filing of a notice, report, information, or claim in
- 15 connection with an individual, group, or mass separation arising
- 16 from the vacation period.

1 SECTION 3. IC 22-4-3-5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2011]: **Sec. 5. (a) An individual is not totally unemployed,
 4 part-totally unemployed, or partially unemployed for any week in
 5 which the department finds the individual:**

6 **(1) is on a vacation week; and**

7 **(2) has not received remuneration from the employer for that
 8 week, because of:**

9 **(A) a written contract between the employer and the
 10 employees; or**

11 **(B) the employer's regular vacation policy and practice.**

12 **(b) Subsection (a) applies only if the department finds that the
 13 individual has a reasonable assurance that the individual will have
 14 employment available with the employer after the vacation period
 15 ends.**

16 **(c) Subsection (a) does not apply to an individual whose
 17 employer fails to comply with a department rule or policy
 18 regarding the filing of a notice, report, information, or claim in
 19 connection with an individual, group, or mass separation arising
 20 from the vacation period."**

21 Page 4, line 6, delete "October 1, 2011," and insert "**July 1, 2012**,".

22 Page 4, line 13, delete "October 1," and insert "**July 1, 2012**,".

23 Page 4, line 14, delete "2011,".

24 Page 5, line 34, delete "This subsection applies to initial claims for
 25 unemployment".

26 Page 5, delete line 35.

27 Page 5, line 36, delete "October 1, 2011,".

28 Page 5, run in lines 34 through 36.

29 Page 5, between lines 40 and 41, begin a new paragraph and insert:

30 "SECTION 6. IC 22-4-10-3, AS AMENDED BY P.L.110-2010,
 31 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 DECEMBER 31, 2010 (RETROACTIVE)]: Sec. 3. (a) This subsection
 33 applies before January 1, 2011. Except as provided in section 1(b)
 34 through 1(e) of this chapter, each employer shall pay contributions
 35 equal to five and six-tenths percent (5.6%) of wages, except as
 36 otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and
 37 IC 22-4-37-3.

38 (b) This subsection applies after December 31, 2010. Except as

1 provided in section 1(b) through 1(e) of this chapter **and IC 22-4-37-3**,
 2 each employer shall pay contributions equal to ~~twelve percent (12%)~~
 3 ~~of wages, except as otherwise provided in the amount determined or~~
 4 **estimated by the department under section 6 of this chapter**,
 5 IC 22-4-11-2, IC 22-4-11-3.5, **and IC 22-4-11.5.** ~~and IC 22-4-37-3."~~

6 Page 6, line 5, delete "and".

7 Page 6, line 8, after "IC 22-4-37-3;" insert "**and**

8 **(3) that:**

9 **(A) has been subject to this article during the preceding**
 10 **thirty-six (36) consecutive calendar months; and**

11 **(B) has had a payroll in each of the three (3) preceding**
 12 **twelve (12) month periods;"**.

13 Page 6, line 14, after "chapter," insert "**IC 22-4-11**,".

14 Page 6, line 16, delete "rate".

15 Page 6, line 17, after "chapter," insert "**IC 22-4-11**,".

16 Page 6, line 23, delete ":" and insert "**factors that include:**".

17 Page 6, line 31, after "chapter." insert "**Failure to pay the**
 18 **unemployment insurance surcharge as specified in this section is**
 19 **considered a delinquency under IC 22-4-11-2.**".

20 Page 7, line 4, delete "." and insert "**during the preceding four (4)**
 21 **calendar quarters.**".

22 Page 7, line 20, after "deposited" insert "**at least quarterly**".

23 Page 7, between lines 22 and 23, begin a new paragraph and insert:
 24 "SECTION 9. IC 22-4-11-2, AS AMENDED BY P.L.110-2010,
 25 SECTION 26, AND AS AMENDED BY P.L.1-2010, SECTION 86, IS
 26 CORRECTED AND AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE DECEMBER 31, 2010 (RETROACTIVE)]: Sec. 2. (a)
 28 Except as provided in **IC 22-4-10-6 and IC 22-4-11.5**, the department
 29 shall for each year determine the contribution rate applicable to each
 30 employer.

31 (b) The balance shall include contributions with respect to the
 32 period ending on the computation date and actually paid on or before
 33 July 31 immediately following the computation date and benefits
 34 actually paid on or before the computation date and shall also include
 35 any voluntary payments made in accordance with IC 22-4-10-5 or
 36 ~~IC 22-4-10-5.5(1)~~ **IC 22-4-10-5.5** (repealed):

37 **(1)** for each calendar year, an employer's rate shall be determined
 38 in accordance with the rate schedules in section 3.3 or 3.5 of this

1 chapter; and
 2 (2) for each calendar year, an employer's rate shall be two and
 3 seven-tenths percent (2.7%) before January 1, ~~2010~~, 2011, and
 4 two and five-tenths percent (2.5%) after December 31, ~~2009~~;
 5 2010, except as otherwise provided in IC 22-4-37-3, unless: ~~and~~
 6 ~~until~~:

- 7 (A) the employer has been subject to this article throughout
 8 the thirty-six (36) consecutive calendar months immediately
 9 preceding the computation date; ~~and~~
 10 (B) there has been some annual payroll in each of the three (3)
 11 twelve (12) month periods immediately preceding the
 12 computation date; **and**
 13 **(C) the employer has properly filed all required**
 14 **contribution and wage reports, and all contributions,**
 15 **penalties, and interest due and owing by the employer or**
 16 **the employer's predecessors have been paid.**

17 (c) This subsection applies before January 1, ~~2010~~, 2011. In addition
 18 to the conditions and requirements set forth and provided in subsection
 19 (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five
 20 and six-tenths percent (5.6%) unless all required contribution and wage
 21 reports have been filed within thirty-one (31) days following the
 22 computation date and all contributions, penalties, and interest due and
 23 owing by the employer or the employer's predecessors for periods prior
 24 to and including the computation date have been paid:

- 25 (1) within thirty-one (31) days following the computation date; or
 26 (2) within ten (10) days after the department has given the
 27 employer a written notice by registered mail to the employer's last
 28 known address of:
 29 (A) the delinquency; or
 30 (B) failure to file the reports;
 31 whichever is the later date.

32 The board or the board's designee may waive the imposition of rates
 33 under this subsection if the board finds the employer's failure to meet
 34 the deadlines was for excusable cause. The department shall give
 35 written notice to the employer before this additional condition or
 36 requirement shall apply.

37 (d) This subsection applies after December 31, ~~2009~~, 2010. In
 38 addition to the conditions and requirements set forth and provided in

1 subsection (b)(2)(A), ~~and (b)(2)(B), and (b)(2)(C)~~, an employer's rate
 2 ~~shall not be less than twelve percent (12%)~~ is equal to the sum of the
 3 employer's contribution rate determined or estimated by the
 4 **department** under this article plus two percent (2%) unless all
 5 required contributions and wage reports have been filed within
 6 thirty-one (31) days following the computation date and all
 7 contributions, penalties, and interest due and owing by the employer or
 8 the employer's predecessor for periods before and including the
 9 computation date have been paid:

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

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

14 (A) the delinquency; or

15 (B) failure to file the reports;

16 whichever is the later date. The board or the board's designee may
 17 waive the imposition of rates under this subsection if the board finds
 18 the employer's failure to meet the deadlines was for excusable cause.
 19 The department shall give written notice to the employer before this
 20 additional condition or requirement shall apply. **An employer's rate**
 21 **under this subsection may not exceed twelve percent (12%).**

22 (e) However, if the employer is the state or a political subdivision
 23 of the state or any instrumentality of a state or a political subdivision,
 24 or any instrumentality which is wholly owned by the state and one (1)
 25 or more other states or political subdivisions, the employer may
 26 contribute at a rate of:

27 (1) one percent (1%), before January 1, ~~2010~~ 2011; or

28 (2) one and six-tenths percent (1.6%), after December 31, ~~2009~~,
 29 2010;

30 until it has been subject to this article throughout the thirty-six (36)
 31 consecutive calendar months immediately preceding the computation
 32 date.

33 (f) On the computation date every employer who had taxable wages
 34 in the previous calendar year shall have the employer's experience
 35 account charged with the amount determined under the following
 36 formula:

37 STEP ONE: Divide:

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

- 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 (g) One (1) percentage point of the rate imposed under subsection
- 7 (c) or (d), or the amount of the employer's payment that is attributable
- 8 to the increase in the contribution rate, whichever is less, shall be
- 9 imposed as a penalty that is due and shall be deposited upon collection
- 10 into the special employment and training services fund established
- 11 under IC 22-4-25-1. The remainder of the contributions paid by an
- 12 employer 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 Page 13, line 13, delete "October 1, 2011," and insert "**July 1,**
- 17 **2012,**".
- 18 Page 13, line 25, delete "October 1, 2011," and insert "**July 1,**
- 19 **2012,**".
- 20 Page 14, delete lines 31 through 35.
- 21 Page 14, line 36, reset in roman "(1)".
- 22 Page 14, line 36, delete "(2)".
- 23 Page 15, line 7, reset in roman "(2)".
- 24 Page 15, line 7, delete "(3)".
- 25 Page 15, line 8, reset in roman "(1) of this section)".
- 26 Page 15, line 8, delete "(2))".
- 27 Page 15, line 24, reset in roman "(3)".
- 28 Page 15, line 24, delete "(4)".
- 29 Page 15, line 24, after "subdivisions" insert "**subdivision**".
- 30 Page 15, line 24, reset in roman "(1)".
- 31 Page 15, line 25, delete "subdivision (2)".
- 32 Page 15, line 25, reset in roman "(2)".
- 33 Page 15, line 25, after "or (2)" insert ",".
- 34 Page 15, line 25, delete "(3),".
- 35 Page 15, line 31, reset in roman "(4)".
- 36 Page 15, line 31, delete "(5)".
- 37 Page 15, line 31, reset in roman "(1)".
- 38 Page 15, line 32, delete "(2)".

1 Page 15, line 32, reset in roman "(2)".

2 Page 15, line 32, delete "(3)".

3 Page 15, line 33, reset in roman "(1)".

4 Page 15, line 34 reset in roman "and".

5 Page 15, line 34, delete "and (4)".

6 Page 15, between lines 40 and 41, begin a new line block indented
7 and insert:

8 **"(5) For services to which 26 U.S.C. 3309(a)(1) applies, if the**
9 **services are provided to or on behalf of an educational**
10 **institution, compensation payable based on the services may**
11 **be denied as specified in subdivisions (1), (2), (3), and (4)."**

12 Page 16, delete lines 12 through 42.

13 Page 17, delete lines 1 through 25, begin a new paragraph and
14 insert:

15 "SECTION 11. IC 22-4-15-4 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) An individual
17 shall be ineligible for waiting period or benefit rights for any week with
18 respect to which the individual receives, is receiving, or has received
19 payments equal to or exceeding ~~his~~ **the individual's** weekly benefit
20 amount in the form of:

21 (1) deductible income as defined and applied in IC 22-4-5-1 and
22 IC 22-4-5-2; or

23 (2) any pension, retirement or annuity payments, under any plan
24 of an employer whereby the employer contributes a portion or all
25 of the money. ~~This~~ **The following apply to a disqualification**
26 **under this subdivision:**

27 **(A) The** disqualification shall apply only if some or all of the
28 benefits otherwise payable:

29 **(i)** are chargeable to the experience or reimbursable account
30 of such employer; or

31 **(ii)** would have been chargeable except for the application
32 of this chapter. ~~For the purposes of this subdivision (2);~~

33 **(B) Notwithstanding clause (A), the disqualification does**
34 **not apply to a distribution from a pension, retirement, or**
35 **annuity plan of an employer when an individual uses the**
36 **distribution to satisfy a severe financial hardship resulting**
37 **from an unforeseeable emergency that is the result of**
38 **events beyond the individual's control.**

1 (C) Federal old age, survivors, and disability insurance
 2 benefits are not considered payments under a plan of an
 3 employer whereby the employer maintains the plan or
 4 contributes a portion or all of the money to the extent required
 5 by federal law.

6 (b) If the payments described in subsection (a) are less than ~~his~~ **an**
 7 **individual's** weekly benefit amount an otherwise eligible individual
 8 shall not be ineligible and shall be entitled to receive for such week
 9 benefits reduced by the amount of such payments.

10 (c) This section does not preclude an individual from delaying a
 11 claim to pension, retirement, or annuity payments until the individual
 12 has received the benefits to which the individual would otherwise be
 13 eligible under this chapter. Weekly benefits received before the date
 14 the individual elects to retire shall not be reduced by any pension,
 15 retirement, or annuity payments received on or after the date the
 16 individual elects to retire.

17 SECTION 14. IC 22-4-17-2.5, AS AMENDED BY P.L.3-2008,
 18 SECTION 159, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) When an individual files an
 20 initial claim, the individual shall be advised of the following:

21 (1) Unemployment compensation is subject to federal, state, and
 22 local income taxes.

23 (2) Requirements exist concerning estimated tax payments.

24 (3) ~~After December 31, 1996,~~ The individual may elect to have
 25 income taxes withheld from the individual's payment of
 26 unemployment compensation. If an election is made, the
 27 department shall withhold federal income tax at the applicable
 28 rate provided in the Internal Revenue Code.

29 **(4) After December 31, 2011, the individual may elect to have**
 30 **state adjusted gross income tax imposed under IC 6-3 and**
 31 **local taxes imposed under IC 6-3.5 deducted and withheld**
 32 **from the individual's payment of unemployment**
 33 **compensation. If an election is made, the department shall**
 34 **withhold state adjusted gross income tax imposed under**
 35 **IC 6-3 and local taxes imposed under IC 6-3.5 at the**
 36 **applicable rate prescribed in withholding instructions issued**
 37 **by the department of state revenue.**

38 ~~(4)~~ **(5)** An individual is allowed to change an election made under

1 this section.

2 (b) Money withheld from unemployment compensation under this
3 section shall remain in the unemployment fund until transferred to the
4 federal taxing authority **or the state (as appropriate)** for payment of
5 income taxes.

6 (c) The commissioner shall follow all procedures of the United
7 States Department of Labor, ~~and~~ the Internal Revenue Service, **and the**
8 **department of state revenue** concerning the withholding of income
9 taxes.

10 (d) Money shall be deducted and withheld in accordance with the
11 priorities established in regulations developed by the commissioner.".

12 Renumber all SECTIONS consecutively.
 (Reference is to HB 1450 as introduced.)

and when so amended that said bill do pass.

Representative Gutwein