SENATE BILL No. 395

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-6-5.

Synopsis: Employee's right to work. Makes it a Class A misdemeanor to require an individual to: (1) become or remain a member of a labor organization; (2) pay dues, fees, or other charges to a labor organization; or (3) pay to a charity or another third party an amount that represents dues, fees, or other charges required of members of a labor organization; as a condition of employment or continuation of employment. Establishes a separate private right of action for violations or threatened violations.

Effective: July 1, 2011.

Yoder

January 11, 2011, read first time and referred to Committee on Pensions and Labor.

C o p y

Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 395

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:

SECTION 1. IC 22-6-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 5. Right to Work

Sec. 1. This chapter does not apply to the following:

(1) An employee of the United States or a wholly owned corporation of the United States.

(2) An:

(A) employee; and

(B) employer;

subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).

(3) An employee employed on property over which the United States government has exclusive jurisdiction for the purpose of labor relations.

Sec. 2. This chapter does not apply to the extent that it:

(1) conflicts with; or

(2) is preempted by;

federal law.

Sec. 3. As used in this chapter, "employer" means:

(1) a person employing at least one (1) individual in Indiana;

(2) a public body; or

(3) an agent of an employer described in subdivision (1) or (2).

Sec. 4. As used in this chapter, "labor organization" means:

(1) an organization;

(2) an agency;

(3) a union; or

(4) an employee representation committee;

that exists, in whole or in part, to assist employees in dealing with employers concerning grievances, labor disputes, wages, rates of pay, or other terms or conditions of employment. The term includes a school employee organization (as defined in IC 20-29-2-14).

Sec. 5. As used in this chapter, "person" means:

(1) an individual;

(2) a proprietorship;

(3) a partnership;

(4) a firm;

(5) an association;

(6) a corporation;

(7) a labor organization; or

(8) another legal entity.

Sec. 6. As used in this chapter, "public body" means the following:

(1) The state.

(2) A municipal corporation (as defined in IC 36-1-2-10).

(3) A public transportation agency (as defined in IC 36-9-1-5.5).

(4) A public utility employer (as defined in IC 22-6-2-2(a)).

(5) A school employer (as defined in IC 20-29-2-15).

Sec. 7. As used in this chapter, "the state" includes:

(1) a board;

(2) a branch;

(3) a commission;

(4) a department;

(5) a division;

(6) a bureau;

(7) a committee;

(8) an agency;

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(9) an institution (including a state educational institution as defined in IC 21-7-13-32);
(10) an authority; or
(11) another instrumentality;
of the state.

Sec. 8. A person may not require an individual to:
(1) become or remain a member of a labor organization;
(2) pay dues, fees, assessments, or other charges of any kind or amount to a labor organization; or
(3) pay to a charity or third party an amount that is equivalent to or a pro rata part of dues, fees, assessments, or other charges required of members of a labor organization;
as a condition of employment or continuation of employment.

Sec. 9. A contract, agreement, understanding, or practice, written or oral, express or implied, between:
(1) a labor organization; and
(2) an employer;
that violates section 8 of this chapter is unlawful and void.

Sec. 10. A person that knowingly or intentionally, directly or indirectly, violates section 8 of this chapter commits a Class A misdemeanor.

Sec. 11. An individual who is employed by an employer may file a complaint that alleges a violation or threatened violation of this chapter with the attorney general or the prosecuting attorney of the county in which the individual is employed. Upon receiving a complaint under this section, the attorney general or prosecuting attorney shall:
(1) investigate the complaint; and
(2) enforce compliance if a violation of this chapter is found.

Sec. 12. (a) If an individual suffers an injury:
(1) as the result of any act or practice that violates this chapter; or
(2) from a threatened violation of this chapter;
the individual may bring a civil action.

(b) A court may order an award of any or all of the following to an individual who prevails in an action under subsection (a):
(1) Actual and consequential damages resulting from the violation or threatened violation.
(2) A civil penalty against the violator of not more than one thousand dollars ($1,000).
(3) Reasonable attorney's fees, litigation expenses, and costs.
(4) Declaratory or equitable relief, including injunctive relief.

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(5) Other relief the court considers proper.

(c) The remedies and penalties set forth in subsection (b) are:

(1) cumulative; and

(2) in addition to other remedies and penalties imposed for a violation of this chapter.

Sec. 13. Sections 8 through 12 of this chapter:

(1) apply to a written or oral contract or agreement entered into, modified, renewed, or extended after June 30, 2011; and

(2) do not apply to or abrogate a written or oral contract or agreement in effect on June 30, 2011.

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