
SENATE BILL No. 573

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Construction industry employer-union agreements. Provides that a construction industry employer may enter into an agreement with a union or other labor organization that represents the employer's workers to allow the union or other labor organization to become the employer of the union's or other labor organization's members only for purposes of unemployment insurance. Permits the employer and the union or other labor organization to negotiate as a term of the agreement the amount that the employer pays for unemployment insurance coverage. Establishes an initial employer contribution rate for a union or other labor organization that has entered into an agreement. Provides that an individual whose union or other labor organization is the individual's employer for purposes of unemployment insurance is automatically entitled to a work search waiver.

Effective: July 1, 2011.

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January 20, 2011, read first time and referred to Committee on Pensions and Labor.

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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. 573



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 22-4-7.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]:

4 **Chapter 7.5. Construction Industry Employer-Union**
5 **Agreements**

6 **Sec. 1. This chapter applies, after December 31, 2011, to the**
7 **following:**

- 8 (1) **An employer in the construction industry:**
 - 9 (A) **that is subject to this article for wages paid; and**
 - 10 (B) **whose contribution rate is determined under**
 - 11 **IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3.**
- 12 (2) **A union or other labor organization:**
 - 13 (A) **whose members are regularly placed in employment in**
 - 14 **the construction industry through a union hall or other**
 - 15 **hiring service; and**
 - 16 (B) **that maintains health insurance or a pension program**
 - 17 **for its members using an independent administrator.**



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Sec. 2. (a) An employer that:

- (1) regularly hires as employees members of a union or other labor organization; or**
- (2) enters into an agreement with a union or other labor organization for purposes of employing as employees members of that union or other labor organization;**

may enter into an agreement with a union or other labor organization to permit the union or other labor organization to be considered, only for purposes of this article, the employer of the union's members who provide services as employees to the employer.

(b) An agreement described in subsection (a) must require that the employer pay to the union or other labor organization an amount for unemployment insurance coverage for each member who provides services as an employee to the employer during a calendar year. The employer and the union or other labor organization may negotiate the amount of the payment, but the amount may not exceed the result obtained by:

- (1) subtracting two thousand dollars (\$2,000) from the part of remuneration paid in a calendar year to the member by the employer, or the employer's predecessor, for employment and included in wages (as defined in IC 22-4-4-2) for that calendar year; and**
- (2) multiplying the difference obtained in subdivision (1) by ten percent (10%).**

(c) For purposes of this article only, the union or other labor organization is considered the employer of a member covered by an agreement described in subsection (a).

(d) Amounts paid by an employer under an agreement described in subsection (a) do not affect and may not be charged to the employer's experience account.

Sec. 3. (a) A union or other labor organization holds employer amounts paid under section 2 of this chapter in trust for the state and shall pay the amounts to the department not more than two (2) times each calendar year in the manner and at the times provided by this article and by rules adopted by the department.

(b) The department shall deposit the amounts received under this section into the unemployment insurance benefit fund established under IC 22-4-26.

Sec. 4. A union or other labor organization shall maintain an up-to-date list of all members placed with each employer with which the union or other labor organization has an agreement

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1 under this chapter. The union or other labor organization shall
2 provide this information to the department in the manner and at
3 the times provided by this article and by rules adopted by the
4 department.

5 Sec. 5. (a) Notwithstanding IC 22-4-10-3 and IC 22-4-11-2, and
6 except as otherwise provided in IC 22-4-37-3, a union's or other
7 labor organization's employer contribution rate under this article
8 for a calendar year, unless and until the union or other labor
9 organization has been subject to this article as an employer for
10 thirty-six (36) consecutive calendar months immediately preceding
11 the computation date, is equal to:

- 12 (1) the part of remuneration paid in the preceding calendar
- 13 year to a member by an employer, or the employer's
- 14 predecessor, for employment and included in wages (as
- 15 defined in IC 22-4-4-2) for that calendar year; multiplied by
- 16 (2) twenty percent (20%).

17 (b) After the initial thirty-six (36) calendar month period
18 described in subsection (a), this article applies to a union or other
19 labor organization to the same extent as this article applies to an
20 employer:

- 21 (1) that is subject to this article for wages paid; and
- 22 (2) whose contribution rate is determined under IC 22-4-11,
- 23 IC 22-4-11.5, or IC 22-4-37-3.

24 Sec. 6. A union or other labor organization is considered to be
25 an employer under this article for purposes of receiving notice of
26 a claim for benefits under IC 22-4-17-2 and may appeal a claim
27 under the same procedure that applies to any other employer to
28 which this article applies.

29 Sec. 7. An individual who:

- 30 (1) is a member of a union or other labor organization; and
- 31 (2) provides services as an employee to an employer that has
- 32 entered into an agreement under this chapter with the
- 33 member's union or other labor organization;

34 is automatically entitled to a work search waiver under
35 IC 22-4-14-2.

36 SECTION 2. IC 22-4-10-3, AS AMENDED BY P.L.110-2010,
37 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2011]: Sec. 3. (a) This subsection applies before January 1,
39 2011. Except as provided in section 1(b) through 1(e) of this chapter,
40 each employer shall pay contributions equal to five and six-tenths
41 percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2,
42 IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

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1 (b) This subsection applies after December 31, 2010, and before
2 **January 1, 2012.** Except as provided in section 1(b) through 1(e) of
3 this chapter, each employer shall pay contributions equal to twelve
4 percent (12%) of wages, except as otherwise provided in IC 22-4-11-2,
5 IC 22-4-11-3.5, IC 22-4-11.5, and IC 22-4-37-3.

6 (c) **This subsection applies after December 31, 2011. Except as
7 provided in section 1(b) through 1(e) of this chapter, each employer
8 shall pay contributions equal to twelve percent (12%) of wages,
9 except as otherwise provided in IC 22-4-7.5, IC 22-4-11-2,
10 IC 22-4-11-3.5, IC 22-4-11.5, and IC 22-4-37-3.**

11 SECTION 3. IC 22-4-37-3, AS AMENDED BY P.L.175-2009,
12 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2011]: Sec. 3. (a) Should:

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

24 (2) the primary responsibility for the administration of 26 U.S.C.
25 3301 through 26 U.S.C. 3311 be transferred to the state as a
26 demonstration project authorized by Congress; or

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

30 then, beginning with the effective date of such change in liability for
31 payment of such federal tax and for each year thereafter, the normal
32 contribution rate under this article shall be established by the
33 department and may not exceed three and one-half percent (3.5%) per
34 year of each employer's payroll subject to contribution. With respect to
35 each employer having a rate of contribution for such year pursuant to
36 terms of **IC 22-4-7.5**, IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B),
37 IC 22-4-11-2(c), IC 22-4-11-3, IC 22-4-11-3.3, IC 22-4-11-3.5, and
38 IC 22-4-11.5, to the rate of contribution, as determined for such year in
39 which such change occurs, shall be added not more than eight-tenths
40 percent (0.8%) as prescribed by the department.

41 (b) The amount of the excess of tax for which such employer is or
42 may become liable by reason of this section over the amount which

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1 such employer would pay or become liable for except for the provisions
2 of this section, together with any interest or earnings thereon, shall be
3 paid and transferred into the employment and training services
4 administration fund to be disbursed and paid out under the same
5 conditions and for the same purposes as is other money provided to be
6 paid into such fund. If the commissioner shall determine that as of
7 January 1 of any year there is an excess in said fund over the money
8 and funds required to be disbursed therefrom for the purposes thereof
9 for such year, then and in such cases an amount equal to such excess,
10 as determined by the commissioner, shall be transferred to and become
11 part of the unemployment insurance benefit fund, and such funds shall
12 be deemed to be and are hereby appropriated for the purposes set out
13 in this section.

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