



February 14, 2012

ENGROSSED
SENATE BILL No. 330

DIGEST OF SB 330 (Updated February 14, 2012 9:41 am - DI 96)

Citations Affected: IC 4-22; IC 25-2.1.

Synopsis: Certified public accountants. Permits the board of accountancy or the executive director of the licensing agency on behalf of the board to adopt an emergency rule that incorporates by reference the latest statement, edition, or compilation of nationally recognized professional standards governing the competent practice of accountancy.

Effective: Upon passage.

Yoder, Broden

(HOUSE SPONSORS — HEATON, AUSTIN, UBELHOR, WELCH)

January 9, 2012, read first time and referred to Committee on Public Policy.
January 20, 2012, reported favorably — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.
January 31, 2012, engrossed. Read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Employment, Labor and Pensions.
February 14, 2012, reported — Do Pass.

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ES 330—LS 6588/DI 51+



February 14, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 330

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

- 1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,
2 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking
4 action resulting in any of the following rules:
- 5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.
 - 9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
 - 11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.
 - 14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.
 - 16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107

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- 1 and declared necessary to meet an emergency.
 2 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
 3 department of financial institutions and declared necessary to
 4 meet an emergency under IC 24-4.5-6-107.
 5 (7) A rule adopted by the Indiana utility regulatory commission to
 6 address an emergency under IC 8-1-2-113.
 7 (8) An emergency rule adopted by the state lottery commission
 8 under IC 4-30-3-9.
 9 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the
 10 executive board of the state department of health declares is
 11 necessary to meet an emergency.
 12 (10) An emergency rule adopted by the Indiana finance authority
 13 under IC 8-21-12.
 14 (11) An emergency rule adopted by the insurance commissioner
 15 under IC 27-1-23-7 or IC 27-1-12.1.
 16 (12) An emergency rule adopted by the Indiana horse racing
 17 commission under IC 4-31-3-9.
 18 (13) An emergency rule adopted by the air pollution control
 19 board, the solid waste management board, or the water pollution
 20 control board under IC 13-15-4-10(4) or to comply with a
 21 deadline required by or other date provided by federal law,
 22 provided:
 23 (A) the variance procedures are included in the rules; and
 24 (B) permits or licenses granted during the period the
 25 emergency rule is in effect are reviewed after the emergency
 26 rule expires.
 27 (14) An emergency rule adopted by the Indiana election
 28 commission under IC 3-6-4.1-14.
 29 (15) An emergency rule adopted by the department of natural
 30 resources under IC 14-10-2-5.
 31 (16) An emergency rule adopted by the Indiana gaming
 32 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,
 33 IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.
 34 (17) An emergency rule adopted by the alcohol and tobacco
 35 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
 36 IC 7.1-3-20-24.4.
 37 (18) An emergency rule adopted by the department of financial
 38 institutions under IC 28-15-11.
 39 (19) An emergency rule adopted by the office of the secretary of
 40 family and social services under IC 12-8-1-12.
 41 (20) An emergency rule adopted by the office of the children's
 42 health insurance program under IC 12-17.6-2-11.

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- 1 (21) An emergency rule adopted by the office of Medicaid policy
2 and planning under IC 12-15-41-15.
- 3 (22) An emergency rule adopted by the Indiana state board of
4 animal health under IC 15-17-10-9.
- 5 (23) An emergency rule adopted by the board of directors of the
6 Indiana education savings authority under IC 21-9-4-7.
- 7 (24) An emergency rule adopted by the Indiana board of tax
8 review under IC 6-1.1-4-34 (repealed).
- 9 (25) An emergency rule adopted by the department of local
10 government finance under IC 6-1.1-4-33 (repealed).
- 11 (26) An emergency rule adopted by the boiler and pressure vessel
12 rules board under IC 22-13-2-8(c).
- 13 (27) An emergency rule adopted by the Indiana board of tax
14 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule
15 adopted by the department of local government finance under
16 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
- 17 (28) An emergency rule adopted by the board of the Indiana
18 economic development corporation under IC 5-28-5-8.
- 19 (29) A rule adopted by the department of financial institutions
20 under IC 34-55-10-2.5.
- 21 (30) A rule adopted by the Indiana finance authority:
22 (A) under IC 8-15.5-7 approving user fees (as defined in
23 IC 8-15.5-2-10) provided for in a public-private agreement
24 under IC 8-15.5;
25 (B) under IC 8-15-2-17.2(a)(10):
26 (i) establishing enforcement procedures; and
27 (ii) making assessments for failure to pay required tolls;
28 (C) under IC 8-15-2-14(a)(3) authorizing the use of and
29 establishing procedures for the implementation of the
30 collection of user fees by electronic or other nonmanual
31 means; or
32 (D) to make other changes to existing rules related to a toll
33 road project to accommodate the provisions of a public-private
34 agreement under IC 8-15.5.
- 35 (31) An emergency rule adopted by the board of the Indiana
36 health informatics corporation under IC 5-31-5-8.
- 37 (32) An emergency rule adopted by the department of child
38 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or
39 IC 31-27-4-3.
- 40 (33) An emergency rule adopted by the Indiana real estate
41 commission under IC 25-34.1-2-5(15).
- 42 (34) A rule adopted by the department of financial institutions

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- 1 under IC 24-4.4-1-101 and determined necessary to meet an
 2 emergency.
- 3 (35) An emergency rule adopted by the state board of pharmacy
 4 regarding returning unused medication under IC 25-26-23.
- 5 (36) An emergency rule adopted by the department of local
 6 government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- 7 (37) An emergency rule adopted by the office of the secretary of
 8 family and social services or the office of Medicaid policy and
 9 planning concerning the following:
- 10 (A) Federal Medicaid waiver program provisions.
- 11 (B) Federal programs administered by the office of the
 12 secretary.
- 13 **(38) An emergency rule adopted by the Indiana board of**
 14 **accountancy or the executive director of the Indiana**
 15 **professional licensing agency under IC 25-2.1-2-16.**
- 16 (b) The following do not apply to rules described in subsection (a):
 17 (1) Sections 24 through 36 of this chapter.
 18 (2) IC 13-14-9.
- 19 (c) After a rule described in subsection (a) has been adopted by the
 20 agency, the agency shall submit the rule to the publisher for the
 21 assignment of a document control number. The agency shall submit the
 22 rule in the form required by section 20 of this chapter and with the
 23 documents required by section 21 of this chapter. The publisher shall
 24 determine the format of the rule and other documents to be submitted
 25 under this subsection.
- 26 (d) After the document control number has been assigned, the
 27 agency shall submit the rule to the publisher for filing. The agency
 28 shall submit the rule in the form required by section 20 of this chapter
 29 and with the documents required by section 21 of this chapter. The
 30 publisher shall determine the format of the rule and other documents
 31 to be submitted under this subsection.
- 32 (e) Subject to section 39 of this chapter, the publisher shall:
 33 (1) accept the rule for filing; and
 34 (2) electronically record the date and time that the rule is
 35 accepted.
- 36 (f) A rule described in subsection (a) takes effect on the latest of the
 37 following dates:
 38 (1) The effective date of the statute delegating authority to the
 39 agency to adopt the rule.
 40 (2) The date and time that the rule is accepted for filing under
 41 subsection (e).
 42 (3) The effective date stated by the adopting agency in the rule.

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- 1 (4) The date of compliance with every requirement established by
 2 law as a prerequisite to the adoption or effectiveness of the rule.
- 3 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
 4 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
 5 subsections (j), (k), and (l), a rule adopted under this section expires
 6 not later than ninety (90) days after the rule is accepted for filing under
 7 subsection (e). Except for a rule adopted under subsection (a)(13),
 8 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting
 9 another rule under this section, but only for one (1) extension period.
 10 The extension period for a rule adopted under subsection (a)(28) may
 11 not exceed the period for which the original rule was in effect. A rule
 12 adopted under subsection (a)(13) may be extended for two (2)
 13 extension periods. Subject to subsection (j), a rule adopted under
 14 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited
 15 number of extension periods. Except for a rule adopted under
 16 subsection (a)(13), for a rule adopted under this section to be effective
 17 after one (1) extension period, the rule must be adopted under:
 18 (1) sections 24 through 36 of this chapter; or
 19 (2) IC 13-14-9;
 20 as applicable.
- 21 (h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20),
 22 (a)(21), (a)(29), ~~or~~ (a)(37), **or (a)(38)** expires on the earlier of the
 23 following dates:
 24 (1) The expiration date stated by the adopting agency in the rule.
 25 (2) The date that the rule is amended or repealed by a later rule
 26 adopted under sections 24 through 36 of this chapter or this
 27 section.
- 28 (i) This section may not be used to readopt a rule under IC 4-22-2.5.
- 29 (j) A rule described in subsection (a)(24) or (a)(25) expires not later
 30 than January 1, 2006.
- 31 (k) A rule described in subsection (a)(28) expires on the expiration
 32 date stated by the board of the Indiana economic development
 33 corporation in the rule.
- 34 (l) A rule described in subsection (a)(30) expires on the expiration
 35 date stated by the Indiana finance authority in the rule.
- 36 (m) A rule described in subsection (a)(5) or (a)(6) expires on the
 37 date the department is next required to issue a rule under the statute
 38 authorizing or requiring the rule.
- 39 SECTION 2. IC 25-2.1-2-16 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 41 **UPON PASSAGE]: Sec. 16. (a) The board may adopt a rule under**
 42 **IC 4-22-2-37.1 to incorporate by reference into a rule the latest**

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1 statement, edition, or compilation of the professional standards
 2 governing the competent practice of accountancy that are:

- 3 (1) enacted in a federal or state statute, rule, or regulation; or
 4 (2) adopted by an agent of the United States, a state, or a
 5 nationally recognized organization or association, including
 6 the AICPA, the International Accounting Standards Board,
 7 and the Public Company Accounting Oversight Board.

8 (b) The board may, by resolution, authorize the executive
 9 director of the Indiana professional licensing agency to adopt one
 10 (1) or more rules described in subsection (a) on behalf of the board.
 11 The authorization may be limited as determined by the board. The
 12 board may revise or terminate an authorization by resolution. The
 13 executive director of the Indiana professional licensing agency shall
 14 adopt rules under IC 4-22-2-37.1 in conformity with the resolution
 15 adopted by the board. A rule adopted on behalf of the board by the
 16 executive director must:

- 17 (1) be signed by the executive director;
 18 (2) specify on the signature page that the executive director is
 19 acting on behalf of the board; and
 20 (3) be submitted to the publisher of the Indiana Register
 21 under IC 4-22-2-37.1 with a copy of the resolution authorizing
 22 the rulemaking.

23 A rule adopted by the executive director in conformity with this
 24 subsection shall be treated as a rule of the board.

25 (c) A rule described in subsection (a) or (b) expires on the later
 26 of the date:

- 27 (1) specified in the rule; or
 28 (2) that another rule becomes effective that amends or repeals
 29 the previously issued rule.

30 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 330, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 330 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 330 be amended to read as follows:

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

"SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
- (7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
- (8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

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- (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.
- (10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.
- (11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7 or IC 27-1-12.1.
- (12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.
- (13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:
- (A) the variance procedures are included in the rules; and
 - (B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.
- (14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.
- (15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.
- (16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.
- (17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.
- (18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.
- (19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.
- (20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.
- (21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.
- (22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.
- (23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.
- (24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

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- (25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).
- (26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).
- (27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
- (28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.
- (29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.
- (30) A rule adopted by the Indiana finance authority:
- (A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;
 - (B) under IC 8-15-2-17.2(a)(10):
 - (i) establishing enforcement procedures; and
 - (ii) making assessments for failure to pay required tolls;
 - (C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or
 - (D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.
- (31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.
- (32) An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.
- (33) An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).
- (34) A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.
- (35) An emergency rule adopted by the state board of pharmacy regarding returning unused medication under IC 25-26-23.
- (36) An emergency rule adopted by the department of local government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- (37) An emergency rule adopted by the office of the secretary of family and social services or the office of Medicaid policy and

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planning concerning the following:

(A) Federal Medicaid waiver program provisions.

(B) Federal programs administered by the office of the secretary.

(38) An emergency rule adopted by the Indiana board of accountancy or the executive director of the Indiana professional licensing agency under IC 25-2.1-2-16.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting

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another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20), (a)(21), (a)(29), ~~or~~ (a)(37), ~~or~~ **(a)(38)** expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule."

Delete page 2.

Page 3, delete lines 1 through 7.

Page 3, line 11, delete "IC 4-22-2-38 to bring another rule into conformity with part or all" and insert "**IC 4-22-2-37.1 to incorporate by reference into a rule the latest statement, edition, or compilation**".

Page 3, line 25, delete "IC 4-22-2-38" and insert "**IC 4-22-2-37.1**".

Page 3, line 32, delete "IC 4-22-2-38" and insert "**IC 4-22-2-37.1**".

Renumber all SECTIONS consecutively.

(Reference is to SB 330 as printed January 20, 2012.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 330, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GUTWEIN, Chair

Committee Vote: yeas 11, nays 0.

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