
HOUSE BILL No. 1104

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-6-6.

Synopsis: Right to work pilot program. Establishes a right to work pilot program (pilot program). Provides that the Indiana economic development corporation (corporation) administers the pilot program. Requires the corporation to implement the pilot program in at least one region of Indiana by May 1, 2012. Provides that the pilot program: (1) makes it a Class A misdemeanor to require an individual to: (A) become or remain a member of a labor organization; (B) pay dues, fees, or other charges to a labor organization; or (C) 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; and (2) establishes a separate private right of action for violations or threatened violations. Provides that the pilot program does not apply to federal employees, employees subject to certain federal laws, certain employees over whom the federal government has jurisdiction, state employees, and employees of a political subdivision. Provides that the pilot program does not apply to the extent it is in conflict with or preempted by federal law. Requires the corporation to submit, before November 1, 2013, a report to the general assembly on the pilot program. Specifies that the report must include any conclusions and recommendations made by the corporation concerning the pilot program, information concerning the expansion of the pilot program statewide, and any recommended legislation.

Effective: Upon passage.

McClain

January 9, 2012, read first time and referred to Committee on Employment, Labor and Pensions.

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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.

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HOUSE BILL No. 1104



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 22-6-6 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 3 PASSAGE]:
- 4 **Chapter 6. Right to Work Pilot Program**
- 5 **Sec. 1. (a) The pilot program does not apply to the following:**
- 6 (1) **An employee of the United States or a wholly owned**
- 7 **corporation of the United States.**
- 8 (2) **An:**
- 9 (A) **employee; and**
- 10 (B) **employer;**
- 11 **subject to the federal Railway Labor Act (45 U.S.C. 151 et**
- 12 **seq.).**
- 13 (3) **An employee employed on property over which the United**
- 14 **States government has exclusive jurisdiction for the purpose**
- 15 **of labor relations.**
- 16 (4) **An employee of the state.**
- 17 (5) **An employee of a political subdivision (as defined in**



- 1 **IC 36-1-2-13).**
 2 **(b) The pilot program does not apply to the extent that it:**
 3 **(1) conflicts with; or**
 4 **(2) is preempted by;**
 5 **federal law.**
 6 **Sec. 2. As used in this chapter, "corporation" refers to the**
 7 **Indiana economic development corporation established under**
 8 **IC 5-28-3-1.**
 9 **Sec. 3. As used in this chapter, "employer" means:**
 10 **(1) a person employing at least one (1) individual in Indiana;**
 11 **or**
 12 **(2) an agent of an employer described in subdivision (1).**
 13 **Sec. 4. As used in this chapter, "labor organization" means:**
 14 **(1) an organization;**
 15 **(2) an agency;**
 16 **(3) a union; or**
 17 **(4) an employee representation committee;**
 18 **that exists, in whole or in part, to assist employees in negotiating**
 19 **with employers concerning grievances, labor disputes, wages, rates**
 20 **of pay, or other terms or conditions of employment.**
 21 **Sec. 5. As used in this chapter, "person" means:**
 22 **(1) an individual;**
 23 **(2) a proprietorship;**
 24 **(3) a partnership;**
 25 **(4) a firm;**
 26 **(5) an association;**
 27 **(6) a corporation;**
 28 **(7) a labor organization; or**
 29 **(8) another legal entity.**
 30 **Sec. 6. As used in this chapter, "pilot program" refers to the**
 31 **right to work pilot program established under section 9 of this**
 32 **chapter.**
 33 **Sec. 7. As used in this chapter, "region of Indiana" means a**
 34 **geographic area of Indiana that participates in the pilot program.**
 35 **Sec. 8. As used in this chapter, "the state" includes:**
 36 **(1) a board;**
 37 **(2) a branch;**
 38 **(3) a commission;**
 39 **(4) a department;**
 40 **(5) a division;**
 41 **(6) a bureau;**
 42 **(7) a committee;**

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- 1 (8) an agency;
- 2 (9) an institution (including a state educational institution, as
- 3 defined in IC 21-7-13-32);
- 4 (10) an authority; or
- 5 (11) another instrumentality;
- 6 of the state.

7 **Sec. 9. (a) The right to work pilot program is established.**
 8 **(b) The corporation shall administer the pilot program.**

9 **Sec. 10. The corporation shall do the following:**

- 10 (1) Implement the pilot program in at least one (1) region of
- 11 Indiana not later than May 1, 2012.
- 12 (2) Adopt rules under IC 4-22-2 that the corporation
- 13 considers appropriate or necessary to administer the pilot
- 14 program.
- 15 (3) Establish a procedure by which the pilot program may be
- 16 monitored and evaluated.
- 17 (4) Before November 1, 2013, submit to the general assembly
- 18 a report on the pilot program in an electronic format under
- 19 IC 5-14-6. The report must include the following:
- 20 (A) Any conclusions and recommendations made by the
- 21 corporation concerning the pilot program.
- 22 (B) Information concerning the expansion of the pilot
- 23 program statewide.
- 24 (C) Any recommended legislation.

25 **Sec. 11. The pilot program must include at least the following:**

- 26 (1) A person may not require an individual to:
- 27 (A) become or remain a member of a labor organization;
- 28 (B) pay dues, fees, assessments, or other charges of any
- 29 kind or amount to a labor organization; or
- 30 (C) pay to a charity or third party an amount that is
- 31 equivalent to or a pro rata part of dues, fees, assessments,
- 32 or other charges required of members of a labor
- 33 organization;
- 34 as a condition of employment or continuation of employment
- 35 in a region of Indiana participating in the pilot program.
- 36 (2) A contract, agreement, understanding, or practice, written
- 37 or oral, express or implied, between:
- 38 (A) a labor organization; and
- 39 (B) an employer;
- 40 in a region of Indiana participating in the pilot program must
- 41 comply with subdivision (1). A contract, agreement,
- 42 understanding, or practice that does not comply with

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- 1 subdivision (1) is unlawful and void.
- 2 (3) A person that knowingly or intentionally, directly or
- 3 indirectly, violates subdivision (1) commits a Class A
- 4 misdemeanor.
- 5 (4) An individual who is employed by an employer may file a
- 6 complaint that alleges a violation or threatened violation of
- 7 the provisions of the pilot program with the attorney general
- 8 or the prosecuting attorney of the county in which the
- 9 individual is employed. Upon receiving a complaint under this
- 10 section, the attorney general or prosecuting attorney shall:
- 11 (A) investigate the complaint; and
- 12 (B) enforce compliance if a violation of the provisions of
- 13 the pilot program is found.
- 14 (5) If an individual suffers an injury:
- 15 (A) as the result of any act or practice that violates the
- 16 provisions of the pilot program; or
- 17 (B) from a threatened violation of the provisions of the
- 18 pilot program;
- 19 the individual may bring a civil action.
- 20 (6) A court may order an award of any or all of the following
- 21 to an individual who prevails in an action under subdivision
- 22 (5):
- 23 (A) Actual and consequential damages resulting from the
- 24 violation or threatened violation.
- 25 (B) A civil penalty against the violator of not more than
- 26 one thousand dollars (\$1,000).
- 27 (C) Reasonable attorney's fees, litigation expenses, and
- 28 costs.
- 29 (D) Declaratory or equitable relief, including injunctive
- 30 relief.
- 31 (E) Other relief the court considers proper.
- 32 (7) The remedies and penalties set forth in subdivision (6) are:
- 33 (A) cumulative; and
- 34 (B) in addition to other remedies and penalties imposed for
- 35 a violation of the provisions of the pilot program.
- 36 (8) Subdivisions (1) through (7):
- 37 (A) apply to a written or oral contract or agreement
- 38 entered into, modified, renewed, or extended after May 1,
- 39 2012, in a region participating in the pilot program; and
- 40 (B) do not apply to or abrogate a written or oral contract
- 41 or agreement in effect on May 1, 2012, in a region
- 42 participating in the pilot program.

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1 **Sec. 12. A region of Indiana that desires to participate in the**
2 **pilot program may submit to the corporation an application on a**
3 **form provided by the corporation.**
4 **SECTION 2. An emergency is declared for this act.**

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