



January 29, 2013

HOUSE BILL No. 1457

DIGEST OF HB 1457 (Updated January 29, 2013 11:18 am - DI 96)

Citations Affected: IC 22-4; IC 22-4.1.

Synopsis: Unemployment insurance. Provides that an employer's experience account may not be relieved of charges for benefit overpayments if the overpayments resulted from the employer's failure to respond in a timely or adequate manner to the department of workforce development's (department) request for information related to the claim and the employer has a pattern of failure to respond to department requests for information. Provides that an individual receiving unemployment benefits is required to participate in reemployment and eligibility assessment activities (activities) when directed to do so by the department and permits the department to require an individual to provide proof of identity to participate in the activities. For employers in the construction industry, establishes a new employer contribution rate equal to the greater of 5% or the average of the contribution rates paid by all employers in the construction industry subject to the unemployment law during the 12 months preceding the computation date. Provides that 15% of the interest and civil penalties collected from a claimant who knowingly failed to disclose or falsified any fact that if accurately reported would disqualify the individual from receiving a benefit or that would reduce the benefit are deposited in the unemployment insurance trust fund. (Currently, all of the interest and civil penalties for fraudulent overpayments are deposited in the special employment and training services fund.) Requires an employer to report to the directory of new hires (directory) the same information reported for a new hire for an employee who resumes employment after at least a 60 day break in service. Establishes a civil penalty of \$25 for an employer that fails to report information about new hires to the directory.

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Effective: July 1, 2013.

Leonard, Hamm

January 22, 2013, read first time and referred to Committee on Employment, Labor and Pensions.
January 29, 2013, amended, reported — Do Pass.

HB 1457—LS 6676/DI 102+



January 29, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

HOUSE BILL No. 1457

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 22-4-11-1, AS AMENDED BY P.L.175-2009,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 1. (a) For the purpose of charging employers'
4 experience or reimbursable accounts with regular benefits paid
5 subsequent to July 3, 1971, to any eligible individual but except as
6 provided in IC 22-4-22 and subsection (f), such benefits paid shall be
7 charged proportionately against the experience or reimbursable
8 accounts of the individual's employers in the individual's base period
9 (on the basis of total wage credits established in such base period)
10 against whose accounts the maximum charges specified in this section
11 shall not have been previously made. Such charges shall be made in the
12 inverse chronological order in which the wage credits of such
13 individuals were established. However, when an individual's claim has
14 been computed for the purpose of determining the individual's regular
15 benefit rights, maximum regular benefit amount, and the proportion of
16 such maximum amount to be charged to the experience or reimbursable
17 accounts of respective chargeable employers in the base period, the

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1 experience or reimbursable account of any employer charged with
2 regular benefits paid shall not be credited or recredited with any
3 portion of such maximum amount because of any portion of such
4 individual's wage credits remaining uncharged at the expiration of the
5 individual's benefit period. The maximum so charged against the
6 account of any employer shall not exceed twenty-eight percent (28%)
7 of the total wage credits of such individual with each such employer
8 with which wage credits were established during such individual's base
9 period. Benefits paid under provisions of IC 22-4-22-3 in excess of the
10 amount that the claimant would have been monetarily eligible for under
11 other provisions of this article shall be paid from the fund and not
12 charged to the experience account of any employer. This exception
13 shall not apply to those employers electing to make payments in lieu of
14 contributions who shall be charged for the full amount of regular
15 benefit payments and the part of benefits not reimbursed by the federal
16 government under the Federal-State Extended Unemployment
17 Compensation Act of 1970 that are attributable to service in their
18 employ. Irrespective of the twenty-eight percent (28%) maximum
19 limitation provided for in this section, the part of benefits not
20 reimbursed by the federal government under the Federal-State
21 Extended Unemployment Compensation Act of 1970 paid to an eligible
22 individual based on service with a governmental entity of this state or
23 its political subdivisions shall be charged to the experience or
24 reimbursable accounts of the employers, and the part of benefits not
25 reimbursed by the federal government under the Federal-State
26 Extended Unemployment Compensation Act of 1970 paid to an eligible
27 individual shall be charged to the experience or reimbursable accounts
28 of the individual's employers in the individual's base period, other than
29 governmental entities of this state or its political subdivisions, in the
30 same proportion and sequence as are provided in this section for
31 regular benefits paid. Additional benefits paid under IC 22-4-12-4(c)
32 and benefits paid under IC 22-4-15-1(c)(8) shall:

33 (1) be paid from the fund; and

34 (2) not be charged to the experience account or the reimbursable
35 account of any employer.

36 (b) If the aggregate of wages paid to an individual by two (2) or
37 more employers during the same calendar quarter exceeds the
38 maximum wage credits (as defined in IC 22-4-4-3) then the experience
39 or reimbursable account of each such employer shall be charged in the
40 ratio which the amount of wage credits from such employer bears to the
41 total amount of wage credits during the base period.

42 (c) When wage records show that an individual has been employed

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1 by two (2) or more employers during the same calendar quarter of the
 2 base period but do not indicate both that such employment was
 3 consecutive and the order of sequence thereof, then and in such cases
 4 it shall be deemed that the employer with whom the individual
 5 established a plurality of wage credits in such calendar quarter is the
 6 most recent employer in such quarter and its experience or
 7 reimbursable account shall be first charged with benefits paid to such
 8 individual. The experience or reimbursable account of the employer
 9 with whom the next highest amount of wage credits were established
 10 shall be charged secondly and the experience or reimbursable accounts
 11 of other employers during such quarters, if any, shall likewise be
 12 charged in order according to plurality of wage credits established by
 13 such individual.

14 (d) Except as provided in subsection (f) **or (i)**, if an individual:

15 (1) voluntarily leaves an employer without good cause in
 16 connection with the work; or

17 (2) is discharged from an employer for just cause;

18 wage credits earned with the employer from whom the employee has
 19 separated under these conditions shall be used to compute the
 20 claimant's eligibility for benefits, but charges based on such wage
 21 credits shall be paid from the fund and not charged to the experience
 22 account of any employer. However, this exception shall not apply to
 23 those employers who elect to make payments in lieu of contributions,
 24 who shall be charged for all benefit payments which are attributable to
 25 service in their employ.

26 (e) Any nonprofit organization which elects to make payments in
 27 lieu of contributions into the unemployment compensation fund as
 28 provided in this article is not liable to make the payments with respect
 29 to the benefits paid to any individual whose base period wages include
 30 wages for previously uncovered services as defined in IC 22-4-4-4, nor
 31 is the experience account of any other employer liable for charges for
 32 benefits paid the individual to the extent that the unemployment
 33 compensation fund is reimbursed for these benefits pursuant to Section
 34 121 of P.L.94-566. Payments which otherwise would have been
 35 chargeable to the reimbursable or contributing employers shall be
 36 charged to the fund.

37 (f) If an individual:

38 (1) earns wages during the individual's base period through
 39 employment with two (2) or more employers concurrently;

40 (2) is separated from work by one (1) of the employers for reasons
 41 that would not result in disqualification under IC 22-4-15-1; and

42 (3) continues to work for one (1) or more of the other employers

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1 after the end of the base period and continues to work during the
 2 applicable benefit year on substantially the same basis as during
 3 the base period;

4 wage credits earned with the base period employers shall be used to
 5 compute the claimant's eligibility for benefits, but charges based on the
 6 wage credits from the employer who continues to employ the individual
 7 shall be charged to the experience or reimbursable account of the
 8 separating employer.

9 (g) Subsection (f) does not affect the eligibility of a claimant who
 10 otherwise qualifies for benefits nor the computation of benefits.

11 (h) Unemployment benefits paid shall not be charged to the
 12 experience account of a base period employer when the claimant's
 13 unemployment from the employer was a direct result of the
 14 condemnation of property by a municipal corporation (as defined in
 15 IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an
 16 act of nature, when at least fifty percent (50%) of the employer's
 17 employees, including the claimant, became unemployed as a result.
 18 This exception does not apply when the unemployment was an
 19 intentional result of the employer or a person acting on behalf of the
 20 employer.

21 **(i) The experience account of an employer may not be relieved**
 22 **of charges for a benefit overpayment that is established under**
 23 **IC 22-4-13 or otherwise, if the department determines both of the**
 24 **following:**

25 **(1) That the overpayment was the fault of the employer, or the**
 26 **employer's agent, in failing to respond in a timely or adequate**
 27 **manner to the department's written request for information**
 28 **related to the claim that resulted in the overpayment.**

29 **(2) That the employer, or the employer's agent, has**
 30 **established, through at least two (2) instances of such**
 31 **behavior, a pattern of failure to respond in a timely or**
 32 **adequate manner to the department's requests for**
 33 **information related to claims for unemployment benefits.**

34 SECTION 2. IC 22-4-11-2, AS AMENDED BY P.L.6-2012,
 35 SECTION 153, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Except as provided in
 37 IC 22-4-10-6 and IC 22-4-11.5, the department shall for each year
 38 determine the contribution rate applicable to each employer.

39 (b) The balance shall include contributions with respect to the
 40 period ending on the computation date and actually paid on or before
 41 July 31 immediately following the computation date and benefits
 42 actually paid on or before the computation date and shall also include

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1 any voluntary payments made in accordance with IC 22-4-10-5 or
2 IC 22-4-10-5.5 (repealed):

3 (1) for each calendar year, an employer's rate shall be determined
4 in accordance with the rate schedules in section 3.3 or 3.5 of this
5 chapter; and

6 (2) for each calendar year, an employer's rate shall be ~~two and~~
7 ~~seven-tenths percent (2.7%) before January 1, 2011, and two and~~
8 ~~five-tenths percent (2.5%), after December 31, 2010,~~ except as
9 otherwise provided in **subsection (g) or IC 22-4-37-3**, unless:

10 (A) the employer has been subject to this article throughout
11 the thirty-six (36) consecutive calendar months immediately
12 preceding the computation date;

13 (B) there has been some annual payroll in each of the three (3)
14 twelve (12) month periods immediately preceding the
15 computation date; and

16 (C) the employer has properly filed all required contribution
17 and wage reports, and all contributions, penalties, and interest
18 due and owing by the employer or the employer's predecessors
19 have been paid.

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

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

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

32 (A) the delinquency; or

33 (B) failure to file the reports;

34 whichever is the later date.

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

40 (c) ~~(d)~~ This subsection applies after December 31, 2010. In addition
41 to the conditions and requirements set forth and provided in subsection
42 (b)(2)(A), (b)(2)(B), and (b)(2)(C), an employer's rate is equal to the

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1 sum of the employer's contribution rate determined or estimated by the
 2 department under this article plus two percent (2%) unless all required
 3 contributions and wage reports have been filed within thirty-one (31)
 4 days following the computation date and all contributions, penalties,
 5 and interest due and owing by the employer or the employer's
 6 predecessor for periods before and including the computation date have
 7 been paid:

- 8 (1) within thirty-one (31) days following the computation date; or
 9 (2) within ten (10) days after the department has given the
 10 employer a written notice by registered mail to the employer's last
 11 known address of:

- 12 (A) the delinquency; or
 13 (B) failure to file the reports;

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

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

- 25 (1) ~~one percent (1%); before January 1, 2011; or~~
 26 (2) ~~one and six-tenths percent (1.6%) after December 31, 2010;~~
 27 until it has been subject to this article throughout the thirty-six (36)
 28 consecutive calendar months immediately preceding the computation
 29 date.

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

34 STEP ONE: Divide:

- 35 (A) the employer's taxable wages for the preceding calendar
 36 year; by
 37 (B) the total taxable wages for the preceding calendar year.

38 STEP TWO: Multiply the quotient determined under STEP ONE
 39 by the total amount of benefits charged to the fund under section
 40 1 of this chapter.

41 (g) (f) One (1) percentage point of the rate imposed under
 42 subsection (c), ~~or (d)~~; or the amount of the employer's payment that is

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1 attributable to the increase in the contribution rate, whichever is less,
 2 shall be imposed as a penalty that is due and shall be deposited upon
 3 collection into the special employment and training services fund
 4 established under IC 22-4-25-1. The remainder of the contributions
 5 paid by an employer pursuant to the maximum rate shall be:

- 6 (1) considered a contribution for the purposes of this article; and
- 7 (2) deposited in the unemployment insurance benefit fund
 8 established under IC 22-4-26.

9 **(g) Except as otherwise provided in IC 22-4-37-3, this**
 10 **subsection, instead of subsection (b)(2), applies to an employer in**
 11 **the construction industry. As used in the subsection, "construction**
 12 **industry" means business establishments whose proper primary**
 13 **classification in the current edition of the North American Industry**
 14 **Classification System Manual - United States, published by the**
 15 **National Technical Information Service of the United States**
 16 **Department of Commerce is 23 (construction). For each calendar**
 17 **year beginning after December 31, 2013, an employer's rate shall**
 18 **be equal to the greater of five percent (5%) or the average of the**
 19 **contribution rates paid by all employers in the construction**
 20 **industry subject to this article during the twelve (12) months**
 21 **preceding the computation date, unless:**

- 22 (1) the employer has been subject to this article throughout
 23 the thirty-six (36) consecutive calendar months immediately
 24 preceding the computation date;
- 25 (2) there has been some annual payroll in each of the three (3)
 26 twelve (12) month periods immediately preceding the
 27 computation date; and
- 28 (3) the employer has properly filed all required contribution
 29 and wage reports, and all contributions, penalties, and
 30 interest due and owing by the employer or the employer's
 31 predecessors have been paid.

32 SECTION 3. IC 22-4-13-1.1, AS AMENDED BY P.L.175-2009,
 33 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2013]: Sec. 1.1. (a) Notwithstanding any other provisions of
 35 this article, if an individual knowingly:

- 36 (1) fails to disclose amounts earned during any week in the
 37 individual's waiting period, benefit period, or extended benefit
 38 period; or
- 39 (2) fails to disclose or has falsified any fact;

40 that would disqualify the individual for benefits, reduce the individual's
 41 benefits, or render the individual ineligible for benefits or extended
 42 benefits, the individual forfeits any wage credits earned or any benefits



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1 or extended benefits that might otherwise be payable to the individual
2 for the period in which the failure to disclose or falsification occurs.

3 (b) In addition to amounts forfeited under subsection (a), an
4 individual is subject to the following civil penalties for each instance
5 in which the individual knowingly fails to disclose or falsifies any fact
6 that if accurately reported to the department would disqualify the
7 individual for benefits, reduce the individual's benefits, or render the
8 individual ineligible for benefits or extended benefits:

9 (1) For the first instance, an amount equal to twenty-five percent
10 (25%) of the benefit overpayment.

11 (2) For the second instance, an amount equal to fifty percent
12 (50%) of the benefit overpayment.

13 (3) For the third and each subsequent instance, an amount equal
14 to one hundred percent (100%) of the benefit overpayment.

15 (c) The department's determination under this section constitutes an
16 initial determination under ~~IC 22-4-17-2(t)~~ **IC 22-4-17-2(a)** and is
17 subject to a hearing and review under IC 22-4-17-3 through
18 IC 22-4-17-15.

19 (d) Interest and civil penalties collected under this chapter shall be
20 deposited **as follows:**

21 **(1) Fifteen percent (15%) of the amount collected shall be**
22 **deposited in the unemployment insurance benefit fund**
23 **established under IC 22-4-26-1.**

24 **(2) The remainder of the amount collected shall be deposited**
25 **in the special employment and training services fund established**
26 **under IC 22-4-25-1.**

27 SECTION 4. IC 22-4-14-3, AS AMENDED BY P.L.110-2010,
28 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2013]: Sec. 3. (a) An individual who is receiving benefits as
30 determined under IC 22-4-15-1(c)(8) may restrict the individual's
31 availability because of the individual's need to address the physical,
32 psychological, or legal effects of being a victim of domestic or family
33 violence (as defined in IC 31-9-2-42).

34 (b) An unemployed individual shall be eligible to receive benefits
35 with respect to any week only if the individual:

36 (1) is physically and mentally able to work;

37 (2) is available for work;

38 (3) is found by the department to be making an effort to secure
39 full-time work; and

40 (4) participates in reemployment services ~~such as job search~~
41 ~~assistance services, if the individual has been determined to be~~
42 ~~likely to exhaust regular benefits and to need reemployment~~



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1 services under a profiling system established by the department;
2 **and reemployment and eligibility assessment activities when**
3 **directed by the department**, unless the department determines
4 that:

- 5 (A) the individual has completed the reemployment services;
- 6 or
- 7 (B) failure by the individual to participate in or complete the
- 8 reemployment services is excused by the director under
- 9 IC 22-4-14-2(b).

10 The term "effort to secure full-time work" shall be defined by the
11 department through rule which shall take into consideration whether
12 such individual has a reasonable assurance of reemployment and, if so,
13 the length of the prospective period of unemployment. However, if an
14 otherwise eligible individual is unable to work or unavailable for work
15 on any normal work day of the week the individual shall be eligible to
16 receive benefits with respect to such week reduced by one-third (1/3)
17 of the individual's weekly benefit amount for each day of such inability
18 to work or unavailability for work.

19 (c) For the purpose of this article, unavailability for work of an
20 individual exists in, but is not limited to, any case in which, with
21 respect to any week, it is found:

- 22 (1) that such individual is engaged by any unit, agency, or
- 23 instrumentality of the United States, in charge of public works or
- 24 assistance through public employment, or any unit, agency, or
- 25 instrumentality of this state, or any political subdivision thereof,
- 26 in charge of any public works or assistance through public
- 27 employment;
- 28 (2) that such individual is in full-time active military service of
- 29 the United States, or is enrolled in civilian service as a
- 30 conscientious objector to military service;
- 31 (3) that such individual is suspended for misconduct in
- 32 connection with the individual's work; or
- 33 (4) that such individual is in attendance at a regularly established
- 34 public or private school during the customary hours of the
- 35 individual's occupation or is in any vacation period intervening
- 36 between regular school terms during which the individual is a
- 37 student. However, this subdivision does not apply to any
- 38 individual who is attending a regularly established school, has
- 39 been regularly employed and upon becoming unemployed makes
- 40 an effort to secure full-time work and is available for suitable
- 41 full-time work with the individual's last employer, or is available
- 42 for any other full-time employment deemed suitable.

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1 (d) Notwithstanding any other provisions in this section or
 2 IC 22-4-15-2, no otherwise eligible individual shall be denied benefits
 3 for any week because the individual is in training with the approval of
 4 the department, nor shall such individual be denied benefits with
 5 respect to any week in which the individual is in training with the
 6 approval of the department by reason of the application of the
 7 provisions of this section with respect to the availability for work or
 8 active search for work or by reason of the application of the provisions
 9 of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept,
 10 suitable work. The department shall by rule prescribe the conditions
 11 under which approval of such training will be granted.

12 (e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an
 13 otherwise eligible individual shall not be denied benefits for any week
 14 or determined not able, available, and actively seeking work, because
 15 the individual is responding to a summons for jury service. The
 16 individual shall:

- 17 (1) obtain from the court proof of the individual's jury service;
- 18 and
- 19 (2) provide to the department, in the manner the department
- 20 prescribes by rule, proof of the individual's jury service.

21 **(f) For purposes of this section, reemployment services and**
 22 **reemployment and eligibility assessment activities provided to an**
 23 **individual:**

- 24 **(1) must include:**
 - 25 **(A) orientation to the services available through a one stop**
 - 26 **center (as defined by IC 22-4.5-2-6);**
 - 27 **(B) provision of labor market and career information;**
 - 28 **(C) assessment of the individual's workforce and other job**
 - 29 **related skills; and**
 - 30 **(D) a review of the individual's work search efforts; and**
- 31 **(2) may include:**
 - 32 **(A) comprehensive and specialized assessments;**
 - 33 **(B) individual and group career counseling;**
 - 34 **(C) training services;**
 - 35 **(D) additional services to assist the individual in becoming**
 - 36 **reemployed;**
 - 37 **(E) job search counseling; and**
 - 38 **(F) development and review of the individual's**
 - 39 **reemployment plan that includes the individual's**
 - 40 **participation in job search activities and appropriate**
 - 41 **workshops.**

42 **(g) The department may require an individual participating in**

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1 **reemployment and eligibility assessment activities described in this**
2 **section to provide proof of identity.**

3 SECTION 5. IC 22-4-17-2, AS AMENDED BY P.L.42-2011,
4 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 2. (a) When an individual files an initial claim, the
6 department shall promptly make a determination of the individual's
7 status as an insured worker in a form prescribed by the department. A
8 written notice of the determination of insured status shall be furnished
9 to the individual promptly. Each such determination shall be based on
10 and include a written statement showing the amount of wages paid to
11 the individual for insured work by each employer during the
12 individual's base period and shall include a finding as to whether such
13 wages meet the requirements for the individual to be an insured
14 worker, and, if so, the week ending date of the first week of the
15 individual's benefit period, the individual's weekly benefit amount, and
16 the maximum amount of benefits that may be paid to the individual for
17 weeks of unemployment in the individual's benefit period. For the
18 individual who is not insured, the notice shall include the reason for the
19 determination. Unless the individual, within ten (10) days after such
20 determination was mailed to the individual's last known address, or
21 otherwise delivered to the individual, asks a hearing thereon before an
22 administrative law judge, such determination shall be final and benefits
23 shall be paid or denied in accordance therewith.

24 (b) The department shall promptly furnish each employer in the base
25 period whose experience or reimbursable account is potentially
26 chargeable with benefits to be paid to such individual with a notice in
27 writing of the employer's benefit liability. The notice shall contain the
28 date, the name and Social Security account number of the individual,
29 the ending date of the individual's base period, and the week ending
30 date of the first week of the individual's benefit period. The notice shall
31 further contain information as to the proportion of benefits chargeable
32 to the employer's experience or reimbursable account in ratio to the
33 earnings of such individual from such employer. Unless the employer
34 within ten (10) days after such notice of benefit liability was mailed to
35 the employer's last known address, or otherwise delivered to the
36 employer, asks a hearing thereon before an administrative law judge,
37 such determination shall be final and benefits paid shall be charged in
38 accordance therewith.

39 (c) An employing unit, including an employer, having knowledge
40 of any facts which may affect an individual's eligibility or right to
41 waiting period credits or benefits, shall notify the department of such
42 facts within ten (10) days after the mailing of notice that a former

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1 employee has filed an initial or additional claim for benefits on a form
2 prescribed by the department.

3 (d) If, after the department determines that additional information
4 is necessary to make a determination under this chapter:

5 (1) the department makes a request in writing for additional
6 information from an employing unit, including an employer, on
7 a form prescribed by the department; and

8 (2) the employing unit fails to respond within ten (10) days after
9 the date the request is mailed to the employing unit;

10 the department shall make a decision with the information available.

11 (e) If:

12 (1) an employer appeals an original determination granting
13 benefits to a claimant and the determination is reversed on appeal;
14 and

15 (2) the decision to reverse the determination is at least in part
16 based on information that the department requested from the
17 employer under subsection (d), but which the employer failed to
18 provide within ten (10) days after the department's request was
19 mailed to the employer;

20 the employer's experience account shall be charged an amount equal to
21 fifty percent (50%) of the benefits paid to the employee to which the
22 employee was not entitled and for which the employer's experience
23 account may be charged:

24 (f) If:

25 (1) the employer's experience account is charged under subsection
26 (e); and

27 (2) the employee repays all or a part of the benefits on which the
28 charge under subsection (e) is based;

29 the employer shall receive a credit to the employer's experience
30 account that is equal to the amount of the employee's repayment up to
31 fifty percent (50%) of the amount charged to the employer's experience
32 account under subsection (e).

33 (g) (d) In addition to the foregoing determination of insured status
34 by the department, the deputy shall, throughout the benefit period,
35 determine the claimant's eligibility with respect to each week for which
36 the claimant claims waiting period credit or benefit rights, the validity
37 of the claimant's claim therefor, and the cause for which the claimant
38 left the claimant's work, or may refer such claim to an administrative
39 law judge who shall make the initial determination with respect thereto
40 in accordance with the procedure in section 3 of this chapter.

41 (h) (e) In cases where the claimant's benefit eligibility or
42 disqualification is disputed, the department shall promptly notify the

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1 claimant and the employer or employers directly involved or connected
 2 with the issue raised as to the validity of such claim, the eligibility of
 3 the claimant for waiting period credit or benefits, or the imposition of
 4 a disqualification period or penalty, or the denial thereof, and of the
 5 cause for which the claimant left the claimant's work, of such
 6 determination and the reasons thereof.

7 ~~(i)~~ **(f)** Except as otherwise hereinafter provided in this section
 8 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless
 9 the claimant or such employer, within ten (10) days after the
 10 notification required by subsection ~~(h)~~; **(e)**, was mailed to the claimant's
 11 or the employer's last known address or otherwise delivered to the
 12 claimant or the employer, asks for a hearing before an administrative
 13 law judge thereon, such decision shall be final and benefits shall be
 14 paid or denied in accordance therewith.

15 ~~(j)~~ **(g)** For a notice of disputed administrative determination or
 16 decision mailed or otherwise delivered to the claimant or employer
 17 either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the
 18 claimant or employer, within fifteen (15) days after the notification
 19 required by subsection ~~(h)~~; **(e)**, was mailed to the claimant's or
 20 employer's last known address or otherwise delivered to the claimant
 21 or employer, asks for a hearing before an administrative law judge
 22 thereon, such decision shall be final and benefits shall be paid or
 23 denied in accordance therewith.

24 ~~(k)~~ **(h)** If a claimant or an employer requests a hearing under
 25 subsection ~~(i)~~ **(f)** or ~~(j)~~; **(g)**, the request therefor shall be filed with the
 26 department in writing within the prescribed periods as above set forth
 27 in this section and shall be in such form as the department may
 28 prescribe. In the event a hearing is requested by an employer or the
 29 department after it has been administratively determined that benefits
 30 should be allowed to a claimant, entitled benefits shall continue to be
 31 paid to said claimant unless said administrative determination has been
 32 reversed by a due process hearing. Benefits with respect to any week
 33 not in dispute shall be paid promptly regardless of any appeal.

34 ~~(l)~~ **(i)** A person may not participate on behalf of the department in
 35 any case in which the person is an interested party.

36 ~~(m)~~ **(j)** Solely on the ground of obvious administrative error
 37 appearing on the face of an original determination, and within the
 38 benefit year of the affected claims, the commissioner, or a
 39 representative authorized by the commissioner to act in the
 40 commissioner's behalf, may reconsider and direct the deputy to revise
 41 the original determination so as to correct the obvious error appearing
 42 therein. Time for filing an appeal and requesting a hearing before an

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1 administrative law judge regarding the determinations handed down
2 pursuant to this subsection shall begin on the date following the date
3 of revision of the original determination and shall be filed with the
4 commissioner in writing within the prescribed periods as above set
5 forth in subsection (c).

6 ~~(m)~~ **(k)** Notice to the employer and the claimant that the
7 determination of the department is final if a hearing is not requested
8 shall be prominently displayed on the notice of the determination
9 which is sent to the employer and the claimant.

10 ~~(o)~~ **(l)** If an allegation of the applicability of IC 22-4-15-1(c)(8) is
11 made by the individual at the time of the claim for benefits, the
12 department shall not notify the employer of the claimant's current
13 address or physical location.

14 SECTION 6. IC 22-4.1-4-2, AS AMENDED BY P.L.131-2009,
15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2013]: Sec. 2. (a) This section applies only to an employer
17 who employs individuals within the state.

18 (b) As used in this section, "date of hire" is:
19 **(1) the first date that an employee provides labor or services to an**
20 **employer; or**

21 **(2) the first date that an employee resumes providing labor or**
22 **services to an employer after a separation from service with**
23 **the employer of at least sixty (60) days.**

24 (c) As used in this section, "employee":
25 **(1) has the meaning set forth in Chapter 24 of the Internal**
26 **Revenue Code of 1986; and**

27 **(2) includes any individual:**
28 **(A) required under Internal Revenue Service regulations to**
29 **complete a federal form W-4; and**

30 **(B) who has provided services to an employer.**

31 The term does not include an employee of a federal or state agency who
32 performs intelligence or counter intelligence functions if the head of
33 the agency determines that the reporting information required under
34 this section could endanger the safety of the employee or compromise
35 an ongoing investigation or intelligence mission.

36 (d) As used in this section, "employer" has the meaning set forth in
37 Section 3401(d) of the Internal Revenue Code of 1986. The term
38 includes:

39 **(1) governmental agencies; and**
40 **(2) labor organizations; and or**

41 ~~(2)~~ **(3) a person doing business in the state as identified by:**
42 **(A) the person's federal employer identification number; or**

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1 (B) if applicable, the common paymaster, as defined in Section
 2 3121 of the Internal Revenue Code or the payroll reporting
 3 agent of the employer, as described in IRS Rev. Proc. 70-6,
 4 1970-1, C.B. 420.

5 (e) As used in this section, "labor organization" has the meaning set
 6 forth in 42 U.S.C. 653A(a)(2)(B)(ii).

7 **(f) As used in this section, "newly hired employee" means an**
 8 **employee who:**

9 **(1) has not previously been employed by an employer; or**

10 **(2) resumes service with an employer after a separation from**
 11 **service of at least sixty (60) days.**

12 ~~(f)~~ **(g)** The department shall maintain the Indiana directory of new
 13 hires as required under 42 U.S.C. 653A.

14 ~~(g)~~ **(h)** The directory under subsection ~~(f)~~ **(g)** must contain **the**
 15 **information for each newly hired employee** that an employer must
 16 provide to the department ~~for each newly hired employee as follows:~~
 17 **under subsection (k).**

18 **(i) An employer must transmit the information required under**
 19 **subsection (k):**

20 ~~(1) The information must be transmitted~~ within twenty (20)
 21 business days of the employee's date of hire; **or**

22 ~~(2) if an employer transmits reports under this section the~~
 23 **information is transmitted** magnetically or electronically, ~~the~~
 24 ~~information must be transmitted~~ in two (2) monthly transactions
 25 that are:

26 (A) not less than twelve (12) days apart; and

27 (B) not more than sixteen (16) days apart.

28 ~~(j) If mailed, the A report containing the information required~~
 29 **under subsection (k) is considered timely:**

30 **(1) if it is postmarked on or before the due date, whenever the**
 31 **report is mailed; or**

32 **(2) If the report is transmitted by facsimile machine or by using**
 33 **electronic or magnetic media, the report is considered timely if it**
 34 **is received on or before the due date, whenever the report is**
 35 **transmitted by:**

36 **(A) facsimile machine; or**

37 **(B) electronic or magnetic media.**

38 ~~(h)~~ **(k)** The employer shall provide the information required under
 39 this section on an employee's withholding allowance certificate
 40 (Internal Revenue Service form W-4) or, at the employer's option, an
 41 equivalent form. ~~The report may be transmitted to the department by~~
 42 ~~first class mail; by facsimile machine, electronically, or magnetically.~~



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- 1 The report must include at least the following:
- 2 (1) The name, address, and Social Security number of the
- 3 employee.
- 4 (2) The name, address, and federal tax identification number of
- 5 the employer.
- 6 (3) The date of hire of the employee.
- 7 (†) (l) An employer that has employees in two (2) or more states and
- 8 that transmits reports under this section electronically or magnetically
- 9 may comply with this section by doing the following:
- 10 (1) Designating one (1) state to receive each report.
- 11 (2) Notifying the Secretary of the United States Department of
- 12 Health and Human Services which state will receive the reports.
- 13 (3) Transmitting the reports to the agency in the designated state
- 14 that is charged with receiving the reports.
- 15 (†) (m) The department may impose **the following** as a civil penalty:
- 16 of:
- 17 (1) **Twenty-five dollars (\$25) on an employer that fails to**
- 18 **comply with this section.**
- 19 (2) Five hundred dollars (\$500) on an employer that fails to
- 20 comply with this section if the failure is a result of a conspiracy
- 21 between the employer and the employee to:
- 22 (†) (A) not provide the required report; or
- 23 (‡) (B) provide a false or an incomplete report.
- 24 (†) (n) The **department shall do the following with** information
- 25 received from an employer regarding newly hired employees: ~~shall be:~~
- 26 (1) ~~entered~~ **Enter the information** into the state's new hire
- 27 directory within five (5) business days of receipt. ~~and~~
- 28 (2) ~~forwarded~~ **Forward the information** to the national directory
- 29 of new hires ~~within~~ **not later than** three (3) business days after
- 30 **entry the information is entered** into the state's new hire
- 31 directory.
- 32 The state shall use quality control standards established by the
- 33 Administrators of the National Directory of New Hires.
- 34 (†) (o) The information contained in the Indiana directory of new
- 35 hires is available only for use by the department for purposes required
- 36 by 42 U.S.C. 653A, unless otherwise provided by law.
- 37 (†) (p) The department of child services (**established under**
- 38 **IC 31-25-1-1**) shall:
- 39 (1) reimburse the department for any costs incurred in carrying
- 40 out this section;
- 41 (†) (n) ~~The department of child services and the department shall and~~
- 42 (2) enter into a purchase of service agreement **with the**

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department that establishes procedures necessary to administer this section.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1457, 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:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete line 1.

Page 10, between lines 2 and 3, begin a new paragraph and insert:
 "SECTION 4. IC 22-4-14-3, AS AMENDED BY P.L.110-2010, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) is physically and mentally able to work;
- (2) is available for work;
- (3) is found by the department to be making an effort to secure full-time work; and
- (4) participates in reemployment services ~~such as job search assistance services; if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the department,~~ **and reemployment and eligibility assessment activities when directed by the department**, unless the department determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the department through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3)



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of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

(e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an otherwise eligible individual shall not be denied benefits for any week or determined not able, available, and actively seeking work, because the individual is responding to a summons for jury service. The individual shall:

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- (1) obtain from the court proof of the individual's jury service; and
- (2) provide to the department, in the manner the department prescribes by rule, proof of the individual's jury service.

(f) For purposes of this section, reemployment services and reemployment and eligibility assessment activities provided to an individual:

(1) must include:

- (A) orientation to the services available through a one stop center (as defined by IC 22-4.5-2-6);**
- (B) provision of labor market and career information;**
- (C) assessment of the individual's workforce and other job related skills; and**
- (D) a review of the individual's work search efforts; and**

(2) may include:

- (A) comprehensive and specialized assessments;**
- (B) individual and group career counseling;**
- (C) training services;**
- (D) additional services to assist the individual in becoming reemployed;**
- (E) job search counseling; and**
- (F) development and review of the individual's reemployment plan that includes the individual's participation in job search activities and appropriate workshops.**

(g) The department may require an individual participating in reemployment and eligibility assessment activities described in this section to provide proof of identity."

Page 10, delete lines 3 through 42.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1457 as introduced.)

GUTWEIN, Chair

Committee Vote: yeas 9, nays 3.

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