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# HOUSE BILL No. 1332

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-3-1.

**Synopsis:** Worker's compensation claims. Provides that an employer shall not discharge or in any way discriminate against an employee because the employee files a claim for compensation or exercises any right afforded the employee under the worker's compensation or occupational diseases law. Establishes a process for the worker's compensation board (board) to investigate and hear complaints alleging violations. Establishes a civil penalty for violations equal to twice the amount of the employee's losses resulting from the violation, including back wages and other losses, plus any investigative costs incurred and documented by the board. Establishes the worker's compensation claimants' fund (fund) to receive, hold, and disburse funds to compensate employees who have been discharged or discriminated against by an employer. Requires the board to adopt rules governing the computation and payment of compensation from the fund to eligible employees. Provides that money in the fund is annually appropriated to the board to carry out the purposes of the fund.

**Effective:** July 1, 2013.

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### Mayfield

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January 17, 2013, read first time and referred to Committee on Employment, Labor and Pensions.

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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.

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## HOUSE BILL No. 1332



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

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

- 1 SECTION 1. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The worker's compensation
- 3 board may adopt rules under IC 4-22-2 to carry into effect the worker's
- 4 compensation law (IC 22-3-2 through IC 22-3-6) and the worker's
- 5 occupational diseases law (IC 22-3-7).
- 6 (b) The worker's compensation board is authorized:
- 7 (1) to hear, determine, and review all:
- 8 (A) claims for compensation under IC 22-3-2 through
- 9 IC 22-3-7; **and**
- 10 (B) **complaints filed under section 6 of this chapter;**
- 11 (2) to require medical service for injured employees;
- 12 (3) to approve claims for medical service or attorney's fees and
- 13 the charges for nurses and hospitals;
- 14 (4) to approve agreements;
- 15 (5) to modify or change awards;
- 16 (6) to make conclusions of facts and rulings of law;
- 17 (7) to certify questions of law to the court of appeals;



- 1 (8) to approve deductions in compensation made by employers for  
 2 amounts paid in excess of the amount required by law;  
 3 (9) to approve agreements between an employer and an employee  
 4 or the employee's dependents for the cash payment of  
 5 compensation in a lump sum, or, in the case of a person under  
 6 eighteen (18) years of age, to order cash payments;  
 7 (10) to establish and maintain a list of independent medical  
 8 examiners and to order physical examinations;  
 9 (11) to subpoena witnesses;  
 10 (12) to administer oaths;  
 11 (13) to apply to the circuit or superior court to enforce the  
 12 attendance and testimony of witnesses and the production and  
 13 examination of books, papers, and records;  
 14 (14) to create and undertake a program designed to educate and  
 15 provide assistance to employees and employers regarding the  
 16 rights and remedies provided by IC 22-3-2 through IC 22-3-7, and  
 17 to provide for informal resolution of disputes;  
 18 (15) to assess and collect, on the board's own initiative or on the  
 19 motion of a party, the penalties provided for in IC 22-3-2 through  
 20 IC 22-3-7; and  
 21 (16) to exercise all other powers and duties conferred upon the  
 22 board by law.

23 SECTION 2. IC 22-3-1-6 IS ADDED TO THE INDIANA CODE  
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 25 1, 2013]: **Sec. 6. (a) As used in this section, "board" refers to the  
 26 worker's compensation board created by section 1 of this chapter.**

27 **(b) An employer shall not discharge or in any way discriminate  
 28 against an employee because the employee:**

- 29 **(1) files a claim for compensation under IC 22-3-2 through**  
 30 **IC 22-3-7; or**  
 31 **(2) exercises any right afforded the employee under IC 22-3-2**  
 32 **through IC 22-3-7.**

33 **(c) An employee who believes that the employee has been**  
 34 **discharged or discriminated against in violation of subsection (b)**  
 35 **may, not later than thirty (30) days after the date the employee**  
 36 **believes the violation occurred, file a complaint with the board**  
 37 **describing the discharge or discrimination.**

38 **(d) After a complaint is filed under subsection (c), the board**  
 39 **shall investigate and make a determination concerning the**  
 40 **complaint not later than ninety (90) days after the board receives**  
 41 **the complaint.**

42 **(e) If the board determines that probable cause does not exist to**

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1 support the allegations in the complaint, the board shall notify the  
2 employee and the employer in writing of the board's  
3 determination.

4 (f) If the board determines that probable cause exists to support  
5 the allegations in the complaint, the board shall hold a hearing on  
6 the complaint after providing due notice to the employee and the  
7 employer. The board shall hold the hearing not more than thirty  
8 (30) days after making the determination under subsection (d).

9 (g) After concluding the hearing, the board shall issue a written  
10 order as to:

11 (1) whether a violation of subsection (b) occurred; and

12 (2) if a violation occurred, the amount of the civil penalty  
13 assessed for the violation.

14 (h) A civil penalty assessed for a violation of subsection (b) is  
15 equal to two (2) times the amount of the employee's losses resulting  
16 from the violation, including back wages and other losses, plus any  
17 investigative costs incurred and documented by the board.

18 (i) A civil penalty imposed under subsection (g) shall be paid to  
19 the worker's compensation claimants' fund established by section  
20 7 of this chapter.

21 (j) A civil penalty imposed under this section is in addition to  
22 any other rights and remedies provided by law.

23 SECTION 3. IC 22-3-1-7 IS ADDED TO THE INDIANA CODE  
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
25 1, 2013]: Sec. 7. (a) As used in this section, "board" refers to the  
26 worker's compensation board created by section 1 of this chapter.

27 (b) As used in this section, "fund" refers to the worker's  
28 compensation claimants' fund established by subsection (c).

29 (c) The worker's compensation claimants' fund is established to  
30 receive, hold, and disburse funds to compensate employees who  
31 have been discharged or discriminated against by an employer in  
32 violation of section 6 of this chapter as determined by the board.

33 (d) The board shall administer the fund. The expenses of  
34 administering the fund shall be paid from money from the fund.

35 (e) The fund consists of:

36 (1) civil penalties assessed and collected under section 6 of this  
37 chapter;

38 (2) interest that accrues from money in the fund;

39 (3) appropriations made to the fund from the general  
40 assembly; and

41 (4) grants, gifts, donations, and money from other sources  
42 intended for deposit in the fund, including transfers from

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- 1           **other funds or accounts.**
- 2           **(f) The treasurer of state shall invest the money in the fund not**
- 3           **currently needed to meet the obligations of the fund in the same**
- 4           **manner as other public money may be invested. Interest that**
- 5           **accrues from these investments shall be deposited in the fund.**
- 6           **(g) The board shall adopt rules under IC 4-22-2 governing the**
- 7           **computation and payment of compensation from the fund to**
- 8           **eligible employees.**
- 9           **(h) Money in the fund is annually appropriated to the board to**
- 10          **carry out the purposes of this section.**
- 11          **(i) Money in the fund at the end of a state fiscal year does not**
- 12          **revert to the state general fund.**

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