
HOUSE BILL No. 1373

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8-13; IC 22-3-2-9; IC 22-4; IC 23-1-49-2.

Synopsis: Business rapid response to disaster emergencies. Requires the department of state revenue to establish a procedure by which out-of-state businesses and employees may apply for exemptions from taxation and other requirements for disaster-related work performed during a disaster period. Requires the department of state revenue to consult and coordinate with the various state and local agencies in establishing certain procedures.

Effective: July 1, 2013.

Koch

January 22, 2013, read first time and referred to Committee on Ways and Means.

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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. 1373



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

- 1 SECTION 1. IC 6-8-13 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2013]:
- 4 **Chapter 13. Business Rapid Response; Exemption from**
- 5 **Taxation and Other Requirements**
- 6 **Sec. 1. As used in this chapter, "affiliate" has the meaning set**
- 7 **forth in IC 23-1-43-1.**
- 8 **Sec. 2. As used in this chapter, "department" refers to the**
- 9 **department of state revenue.**
- 10 **Sec. 3. As used in this chapter, "disaster emergency" means the**
- 11 **following:**
- 12 **(1) A disaster emergency declared under IC 10-14-3-12.**
- 13 **(2) A state of energy emergency declared under IC 10-14-3-13.**
- 14 **(3) A local disaster emergency declared under IC 10-14-3-29.**
- 15 **Sec. 4. As used in this chapter, "disaster period" means the**
- 16 **period:**
- 17 **(1) beginning on the date ten (10) days before the day on**



1 which a disaster emergency is declared; and
 2 (2) ending sixty (60) days after the date on which the disaster
 3 emergency declaration ends.

4 Sec. 5. As used in this chapter, "disaster emergency related
 5 work" means:

- 6 (1) repairing, renovating, installing, or building; or
 7 (2) rendering services or transacting other business activities
 8 related to;

9 infrastructure that is damaged, impaired, or destroyed by an event
 10 that caused a disaster emergency to be declared.

11 Sec. 6. As used in this chapter, "eligible business" means an
 12 out-of-state business that the department determines is eligible for
 13 an exemption under section 12 of this chapter.

14 Sec. 7. As used in this chapter, "eligible employee" means an
 15 out-of-state employee employed by an eligible business.

16 Sec. 8. As used in this chapter, "entity" has the meaning set
 17 forth in IC 23-1-20-10.

18 Sec. 9. As used in this chapter, "infrastructure" means the
 19 following:

- 20 (1) Real or personal property or equipment owned or used by:
 21 (A) a public utility (as defined in IC 8-1-2-1(a));
 22 (B) a municipally owned utility (as defined in
 23 IC 8-1-2-1(h)); or
 24 (C) a communications service provider (as defined in
 25 IC 8-1-32.6-3).

- 26 (2) Public roads and bridges and related support facilities.

27 Sec. 10. (a) As used in this chapter, "out-of-state business"
 28 means an entity that:

- 29 (1) is not incorporated or authorized to do business in Indiana
 30 on the date on which a disaster period begins; and
 31 (2) does not maintain a business presence in Indiana during
 32 the taxable year in which the disaster emergency is declared.

33 (b) The term includes the following:

- 34 (1) An affiliate of an out-of-state business.
 35 (2) An affiliate that is an out-of-state business, if the person
 36 that controls the affiliate is not an out-of-state business.

37 Sec. 11. As used in this chapter, "out-of-state employee" means
 38 an individual who is:

- 39 (1) employed by an out-of-state business at any time during a
 40 disaster period; and
 41 (2) for purposes of section 14 of this chapter, not a resident of
 42 Indiana.

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1 **Sec. 12. (a) To facilitate the performance of disaster emergency**
 2 **related work during a disaster period by out-of-state businesses**
 3 **and out-of-state employees, the department may determine that an**
 4 **out-of-state business or out-of-state employee is eligible to receive**
 5 **one (1) or more of the exemptions set forth in sections 13, 14, 15,**
 6 **and 16 of this chapter.**

7 **(b) The department shall prescribe the form of an application**
 8 **to determine eligibility under subsection (a). An application must**
 9 **contain the following information:**

10 **(1) A statement of purpose that the out-of-state business is in**
 11 **Indiana to respond to a disaster emergency.**

12 **(2) Contact information for the out-of-state business,**
 13 **including the following:**

14 **(A) Principal business address.**

15 **(B) Names and addresses of directors, partners, or**
 16 **members, as applicable.**

17 **(C) Federal tax identification number.**

18 **(3) An estimate of the length of time the out-of-state business**
 19 **will remain in Indiana.**

20 **(4) The number and job descriptions of out-of-state employees**
 21 **employed by the out-of-state business who will perform**
 22 **disaster emergency related work in Indiana during the**
 23 **disaster period.**

24 **(5) Any other information necessary for the department to**
 25 **determine whether the out-of-state business is eligible to**
 26 **receive an exemption.**

27 **(c) The department may make a determination of eligibility**
 28 **under subsection (a) retroactive to the later of the following dates:**

29 **(1) The date on which the disaster period begins.**

30 **(2) The date on which the eligible business or eligible**
 31 **employee enters the state to respond to the disaster**
 32 **emergency.**

33 **(d) The department shall consult with:**

34 **(1) the Indiana professional licensing agency in making a**
 35 **determination under section 15 of this chapter;**

36 **(2) the worker's compensation board in making a**
 37 **determination under section 13(3) of this chapter;**

38 **(3) the unemployment insurance board in making a**
 39 **determination under section 13(4) of this chapter; and**

40 **(4) other state and local agencies as needed.**

41 **(e) The department may issue a means of indicating eligibility**
 42 **under subsection (a) to an eligible business or eligible employee.**

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1 **Sec. 13. An eligible business that performs disaster emergency**
 2 **related work in Indiana during a disaster period is exempt from**
 3 **paying the following during the disaster period:**

4 **(1) Any state or local taxes, including ad valorem and payroll**
 5 **taxes, regardless of the manner in which the eligible business**
 6 **reports, files, or remits the taxes.**

7 **(2) Any state or local fees, including fees associated with**
 8 **licensing or registration requirements.**

9 **(3) Worker's compensation insurance under IC 22-3-5.**

10 **(4) Employer contributions to the unemployment**
 11 **compensation system under IC 22-4-10.**

12 **Sec. 14. The adjusted gross income of an eligible employee that**
 13 **is attributable to disaster emergency related work performed**
 14 **during a disaster period is exempt from the following state or local**
 15 **taxes:**

16 **(1) Adjusted gross income taxes imposed under IC 6-3 and**
 17 **IC 6-3.5.**

18 **(2) Other withholding or remittance obligations determined**
 19 **by the department.**

20 **Sec. 15. An eligible employee is exempt from state and local**
 21 **licensing and registration requirements with respect to disaster**
 22 **emergency related work performed during a disaster period.**

23 **Sec. 16. (a) An eligible business or eligible employee is exempt**
 24 **from paying:**

25 **(1) state gross retail and use taxes imposed under IC 6-2.5;**

26 **(2) motor fuel and vehicle excise taxes imposed under IC 6-6;**
 27 **or**

28 **(3) taxes imposed under IC 6-9;**

29 **with respect to transactions directly related to disaster emergency**
 30 **related work performed by or on behalf of the eligible business or**
 31 **eligible employee during a disaster period.**

32 **(b) A vendor is not required to collect or remit taxes described**
 33 **in subsection (a) from an eligible business or eligible employee that**
 34 **displays a means of indicating eligibility issued under section 12(e)**
 35 **of this chapter.**

36 **Sec. 17. An eligible business or eligible employee that performs**
 37 **work or services or otherwise transacts business:**

38 **(1) unrelated to a disaster emergency during a disaster**
 39 **period; or**

40 **(2) after the expiration of a disaster period;**

41 **establishes nexus with Indiana for purposes of all taxes, fees, and**
 42 **other requirements or obligations attributable to the work,**

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1 **services, or transactions.**

2 SECTION 2. IC 22-3-2-9, AS AMENDED BY P.L.201-2005,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply
5 to:

- 6 (1) casual laborers (as defined in IC 22-3-6-1);
7 (2) farm or agricultural employees;
8 (3) household employees; ~~or~~
9 (4) a person who enters into an independent contractor agreement
10 with a nonprofit corporation that is recognized as tax exempt
11 under Section 501(c)(3) of the Internal Revenue Code (as defined
12 in IC 6-3-1-11(a)) to perform youth coaching services on a
13 part-time basis; **or**

14 **(5) an eligible employee (as defined in IC 6-8-13-7).**

15 IC 22-3-2 through IC 22-3-6 do not apply to the employers or
16 contractors of the persons listed in this subsection, **including an**
17 **eligible business (as defined in IC 6-8-13-6).**

18 (b) An employer who is exempt under this section from the
19 operation of the compensation provisions of this chapter may at any
20 time waive such exemption and thereby accept the provisions of this
21 chapter by giving notice as provided in subsection (c).

22 (c) The notice of acceptance referred to in subsection (b) shall be
23 given thirty (30) days prior to any accident resulting in injury or death,
24 provided that if any such injury occurred less than thirty (30) days after
25 the date of employment, notice of acceptance given at the time of
26 employment shall be sufficient notice thereof. The notice shall be in
27 writing or print in a substantial form prescribed by the worker's
28 compensation board and shall be given by the employer by posting the
29 same in a conspicuous place in the plant, shop, office, room, or place
30 where the employee is employed, or by serving it personally upon the
31 employee; and shall be given by the employer by sending the same in
32 registered letter addressed to the employer at the employer's last known
33 residence or place of business, or by giving it personally to the
34 employer, or any of the employer's agents upon whom a summons in
35 civil actions may be served under the laws of the state.

36 (d) A copy of the notice in prescribed form shall also be filed with
37 the worker's compensation board, within five (5) days after its service
38 in such manner upon the employee or employer.

39 SECTION 3. IC 22-4-7-1 IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2013]: Sec. 1. Prior to January 1, 1978,
41 "employer" means any employing unit which for some portion of a day,
42 but not necessarily simultaneously, in each of twenty (20) different

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1 weeks, whether or not such weeks are or were consecutive within either
 2 the current or preceding calendar year, has or had in employment,
 3 and/or has incurred liability for wages payable to one (1) or more
 4 individuals (irrespective of whether the same individuals are or were
 5 employed in each such day), or any employing unit which in any
 6 calendar quarter in either the current or preceding calendar year paid
 7 for service in employment wages of one thousand five hundred dollars
 8 (\$1,500) or more, except as provided in IC 22-4-7-2(h). Subsequent to
 9 December 31, 1977, "employer" means any employing unit which for
 10 some portion of a day, but not necessarily simultaneously, in each of
 11 twenty (20) different weeks, whether or not such weeks are or were
 12 consecutive within either the current or the preceding year, has or had
 13 in employment, and/or has incurred liability for wages payable to, one
 14 (1) or more individuals (irrespective of whether the same individual or
 15 individuals are or were employed in each such day) or any employing
 16 unit which in any calendar quarter in either the current or preceding
 17 calendar year paid for service in employment wages of one thousand
 18 five hundred dollars (\$1,500) or more, except as provided in
 19 IC 22-4-7-2(h), (e), and (i). For the purpose of this definition, if any
 20 week includes both December 31, and January 1, the days up to
 21 January 1 shall be deemed one (1) calendar week and the days
 22 beginning January 1 another such week. For purposes of this section,
 23 "employment" shall include services which would constitute
 24 employment but for the fact that such services are deemed to be
 25 performed entirely within another state pursuant to an election under
 26 an arrangement entered into by the board (pursuant to IC 22-4-22) and
 27 an agency charged with the administration of any other state or federal
 28 unemployment compensation law. **The term "employer" does not**
 29 **include an eligible business (as defined in IC 6-8-13-6).**

30 SECTION 4. IC 22-4-14-1, AS AMENDED BY P.L.2-2011,
 31 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2013]: Sec. 1. (a) Except as provided in IC 22-4-5-1 or
 33 subsection (b), ~~or~~ (c), **or (d)**, an unemployed individual shall be
 34 eligible to receive benefits with respect to any week only if the
 35 individual has made a claim for benefits in accordance with
 36 IC 22-4-17.

37 (b) A person who:

- 38 (1) accepts a layoff under an inverse seniority clause of a validly
- 39 negotiated contract; and
- 40 (2) otherwise meets the eligibility requirements established by
- 41 this article;

42 is entitled to receive benefits in the same amounts, under the same

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1 terms, and subject to the same conditions as any other unemployed
2 person.

3 (c) This subsection applies to initial claims for unemployment filed
4 for a week that begins after March 14, 2008, and before October 1,
5 2011. This subsection does not apply to a person who elects to retire in
6 connection with a layoff or plant closure and receive pension,
7 retirement, or annuity payments. Except as provided in IC 22-4-5-1, a
8 person who:

9 (1) accepts an offer of payment or other compensation offered by
10 an employer to avert or lessen the effect of a layoff or plant
11 closure; and

12 (2) otherwise meets the eligibility requirements established by
13 this article;

14 is entitled to receive benefits in the same amounts, under the same
15 terms, and subject to the same conditions as any other unemployed
16 person.

17 **(d) An individual who is an eligible employee (as defined in**
18 **IC 6-8-13-7) is not entitled to receive benefits with respect to any**
19 **week during a disaster period (as defined in IC 6-8-13-4) during**
20 **which the individual is unemployed from an eligible business (as**
21 **defined in IC 6-8-13-6).**

22 SECTION 5. IC 23-1-49-2 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A foreign
24 corporation transacting business in Indiana without a certificate of
25 authority may not maintain a proceeding in any court in Indiana until
26 it obtains a certificate of authority. **For purposes of this subsection,**
27 **a means of indicating eligibility issued under IC 6-8-13-12 is**
28 **considered a certificate of authority.**

29 (b) The successor to a foreign corporation that transacted business
30 in Indiana without a certificate of authority and the assignee of a cause
31 of action arising out of that business may not maintain a proceeding
32 based on that cause of action in any court in Indiana until the foreign
33 corporation or its successor obtains a certificate of authority.

34 (c) A court may stay a proceeding commenced by a foreign
35 corporation, its successor, or assignee until it determines whether the
36 foreign corporation or its successor requires a certificate of authority.
37 If it so determines, the court may further stay the proceeding until the
38 foreign corporation or its successor obtains the certificate.

39 (d) A foreign corporation is liable for a civil penalty of not more
40 than ten thousand dollars (\$10,000) if it transacts business in Indiana
41 without a certificate of authority. The attorney general may collect all
42 penalties due under this subsection.

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1 (e) Notwithstanding subsections (a) and (b), the failure of a foreign
2 corporation to obtain a certificate of authority does not impair the
3 validity of its corporate acts or prevent it from defending any
4 proceeding in Indiana.

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