

HOUSE BILL No. 1327

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4-3-5; IC 22-4-14-7.

Synopsis: Unemployment insurance. Removes provisions that prohibit an individual who performs services (other than in an instructional, research, or principal administrative capacity) for an educational institution, in an educational institution while in the employ of an educational service agency, or for a government, nonprofit, or private employer that provides services to an educational institution, from being eligible to receive an unemployment insurance benefit during vacation periods and between academic years or terms.

Effective: Upon passage.

Riecken

January 15, 2014, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1327



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 22-4-3-5, AS AMENDED BY P.L.6-2012,
2 SECTION 152, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) This section does not**
4 **apply to an individual who performs services, other than in an**
5 **instructional, research, or principal administrative capacity:**
6 **(1) for an educational institution;**
7 **(2) in an educational institution while in the employ of an**
8 **educational service agency; or**
9 **(3) for a government, nonprofit, or private employer that**
10 **provides services to an educational institution.**
11 ~~(a)~~ **(b)** Except as provided in subsection ~~(c)~~ **(d)** and subject to
12 subsection ~~(b)~~; **(c)**, an individual is not totally unemployed, part-totally
13 unemployed, or partially unemployed for any week in which the
14 department finds the individual:
15 (1) is on a vacation week; and
16 (2) has not received remuneration from the employer for that



1 week, because of:

2 (A) a written contract between the employer and the
3 employees; or

4 (B) the employer's regular vacation policy and practice.

5 ~~(b)~~ (c) Subsection ~~(a)~~ (b) applies only if the department finds that
6 the individual has a reasonable assurance that the individual will have
7 employment available with the employer after the vacation period ends.

8 ~~(c)~~ (d) Subsection ~~(a)~~ (b) does not apply to an individual whose
9 employer fails to comply with a department rule or policy regarding the
10 filing of a notice, report, information, or claim in connection with an
11 individual, group, or mass separation arising from the vacation period.

12 SECTION 2. IC 22-4-14-7, AS AMENDED BY P.L.2-2011,
13 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 7. (a) Benefits based on service in
15 employment defined in IC 22-4-8-2(i) and IC 22-4-8-2(j) shall be
16 payable in the same amount, on the terms, and subject to the same
17 conditions as compensation payable on the basis of other service
18 subject to this article, unless otherwise specifically provided, subject
19 to the following exceptions:

20 (1) With respect to service performed in an instructional,
21 research, or principal administrative capacity for an educational
22 institution, benefits may not be paid based on the service for any
23 week of unemployment commencing during the period between
24 two (2) successive academic years, or terms, or during the period
25 between two (2) regular but not successive terms, or during a
26 period of paid sabbatical leave provided for in the individual's
27 contract, to any individual if the individual performs the services
28 in the first of the academic years or terms and if there is a
29 reasonable assurance that the individual will perform services in
30 an instructional, research, or principal administrative capacity for
31 any educational institution in the second of the academic years or
32 terms.

33 (2) With respect to services performed in any capacity (other than
34 those listed in subdivision (1) of this section) for an educational
35 institution, benefits may not be paid based on the service of an
36 individual for any week which commences during a period
37 between two (2) successive academic years or terms if the
38 individual performs the service in the first of the academic years
39 or terms and there is reasonable assurance that the individual will
40 perform the service in the second of the academic years or terms.
41 However, with respect to weeks of unemployment beginning on
42 or after January 1, 1984, if compensation is denied to any



1 individual under this subdivision and the individual was not
 2 offered an opportunity to perform such services for the
 3 educational institution for the second of the academic years or
 4 terms; the individual is entitled to a retroactive payment of
 5 compensation for each week for which the individual filed a
 6 timely claim for compensation and for which compensation was
 7 denied solely by reason of this subdivision:

8 ~~(3)~~ **(2)** With respect to any services described in subdivision (1),
 9 or ~~(2)~~; compensation payable for these services shall be denied to
 10 any individual for any week which commences during an
 11 established and customary vacation period or holiday recess if
 12 there is reasonable assurance that the individual will perform the
 13 services in the period immediately following the vacation period
 14 or holiday recess.

15 ~~(4)~~ **(3)** With respect to any services described in ~~subdivisions~~
 16 **subdivision (1), and (2)**; benefits shall not be payable on the basis
 17 of services in any such capacities as specified in subdivisions (1)
 18 **and (2) and (3)**; to any individual who performed such services in
 19 an educational institution while in the employ of an educational
 20 service agency. For purposes of this subdivision, the term
 21 "educational service agency" means a governmental agency or
 22 governmental entity that is established and operated exclusively
 23 for the purpose of providing such services to one (1) or more
 24 educational institutions.

25 ~~(5)~~ **(4)** For services **performed in an instructional, research, or**
 26 **principal administrative capacity** to which 26 U.S.C.
 27 3309(a)(1) applies, if the services are provided to or on behalf of
 28 an educational institution, compensation payable based on the
 29 services may be denied as specified in subdivisions (1), (2), ~~(3)~~;
 30 and ~~(4)~~. **(3)**.

31 (b) For purposes of this section, benefits may not be denied during
 32 the period between academic years or terms to any individual having
 33 wage credits earned with other than an educational institution if the
 34 wage credits qualify the individual under section 5 of this chapter and
 35 the individual is otherwise eligible. In these cases, the claim shall be
 36 computed based on the wage credits earned with employers other than
 37 educational institutions reported for the individual during the base
 38 period, in accordance with IC 22-4-12-2 and IC 22-4-12-4. Benefits
 39 paid based on the computation shall be only for weeks of
 40 unemployment occurring between academic years or terms. For any
 41 weeks of unemployment claims other than between academic years or
 42 terms, the claims of these individuals shall be recomputed to include



1 all base period wages.
2 SECTION 3. **An emergency is declared for this act.**

