

HOUSE BILL No. 1370

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-7.1; IC 22-4-14; IC 22-4-15-2.

Synopsis: Unemployment for noncertificated school employees. Provides that noncertificated employees of school corporations who do not work during a period of more than one month between two successive academic years or terms are eligible to receive unemployment compensation for that period if the employees have wage credits established and are otherwise eligible for unemployment compensation. Provides that these employees are not required to register or be available for work and are not to receive job counseling or training.

Effective: Upon passage.

Porter

January 11, 2000, read first time and referred to Committee on Labor and Employment.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1370



A BILL FOR AN ACT to amend the Indiana Code concerning education and labor.

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

- 1 SECTION 1. IC 20-7.1 IS ADDED TO THE INDIANA CODE AS
- 2 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
- 3 PASSAGE]:
- 4 **ARTICLE 7.1. ELEMENTARY AND SECONDARY SCHOOL**
- 5 **NONCERTIFICATED EMPLOYEES**
- 6 **Chapter 1. Definitions**
- 7 **Sec. 1. As used in this article, "noncertificated employee" has**
- 8 **the meaning set forth in IC 20-7.5-1-2.**
- 9 **Sec. 2. As used in this article, "school corporation" has the**
- 10 **meaning set forth in IC 20-10.1-1-1.**
- 11 **Chapter 2. Unemployment Compensation**
- 12 **Sec. 1. Notwithstanding any other law, a noncertificated**
- 13 **employee of a school corporation who:**
- 14 **(1) does not work for a school corporation for a period of**
- 15 **more than one (1) month between two (2) successive academic**
- 16 **years or terms;**
- 17 **(2) has a contract to return to work for the school corporation**

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1 **at the conclusion of a period of more than one (1) month**
 2 **between two (2) successive academic years or terms; and**
 3 **(3) is otherwise eligible under IC 22-4-14;**
 4 **is eligible to receive unemployment compensation for the period of**
 5 **more than one (1) month between two (2) successive academic**
 6 **years or terms.**

7 SECTION 2. IC 22-4-14-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) An
 9 unemployed individual is eligible to receive benefits with respect to
 10 any week only if the individual has:

11 (1) registered for work at an employment office or branch thereof
 12 or other agency designated by the commissioner within the time
 13 limits that the board by rule adopts; and

14 (2) subsequently reported with the frequency and in the manner,
 15 either in person or in writing, that the board by rule adopts.

16 (b) Failure to comply with subsection (a) shall be excused by the
 17 commissioner or the commissioner's authorized representative upon a
 18 showing of good cause therefor. The board shall by rule waive or alter
 19 the requirements of this section as to such types of cases or situations
 20 with respect to which the commissioner finds that compliance with
 21 such requirements would be oppressive or would be inconsistent with
 22 the purposes of this article.

23 (c) The department shall provide job counseling or training to an
 24 individual who remains unemployed for at least four (4) weeks. The
 25 manner and duration of the counseling shall be determined by the
 26 board.

27 (d) The board may by rule prescribe procedures for the issuance of
 28 unemployment compensation warrants from the local office.

29 **(e) Subsections (a)(1) and (c) do not apply to a noncertificated**
 30 **employee of a school corporation who is receiving benefits for a**
 31 **period of more than one (1) month between two (2) successive**
 32 **academic years or terms.**

33 SECTION 3. IC 22-4-14-3 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **This section**
 35 **does not apply to a noncertificated employee of a school**
 36 **corporation who is receiving benefits for a period of more than one**
 37 **(1) month between two (2) successive academic years or terms.**

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

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

41 (2) is available for work;

42 (3) is found by the department to be making an effort to secure

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1 full-time work; and

2 (4) participates in reemployment services, such as job search
3 assistance services, if the individual has been determined to be
4 likely to exhaust regular benefits and to need reemployment
5 services under a profiling system established by the
6 commissioner, unless the commissioner determines that:

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

8 or

9 (B) failure by the individual to participate in or complete the
10 reemployment services is excused by the director under

11 ~~IC 22-4-14-2(b)~~: **section 2(b) of this chapter.**

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

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

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

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

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

35 (4) that such individual is in attendance at a regularly established
36 public or private school during the customary hours of the
37 individual's occupation or is in any vacation period intervening
38 between regular school terms during which the individual is a
39 student. However, this subdivision does not apply to any
40 individual who is attending a regularly established school, has
41 been regularly employed and upon becoming unemployed makes
42 an effort to secure full-time work and holds himself available for

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1 suitable full-time work with the individual's last employer, or
 2 holds himself available for any other full-time employment
 3 deemed suitable.

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

15 SECTION 4. IC 22-4-14-7.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: **Sec. 7.5. (a) As used in this section,**
 18 **"noncertificated employee" has the meaning set forth in**
 19 **IC 20-7.5-1-2.**

20 **(b) As used in this section, "school corporation" has the**
 21 **meaning set forth in IC 20-10.1-1-1.**

22 **(c) Benefits are payable to any noncertificated employee of a**
 23 **school corporation who:**

24 **(1) has wage credits established under section 5 of this**
 25 **chapter; and**

26 **(2) is otherwise eligible under this chapter;**
 27 **when the individual is otherwise eligible for a period of more than**
 28 **one (1) month between two (2) successive academic years or terms.**

29 **(d) Benefits due under this section shall be only for weeks of**
 30 **unemployment occurring for a period of more than one (1) month**
 31 **between academic years or terms.**

32 **(e) Benefits are:**

33 **(1) payable from the fund to a noncertificated employee of a**
 34 **school corporation as provided by IC 22-4-12-1;**

35 **(2) payable at the rate provided within IC 22-4-12-2;**

36 **(3) not affected by IC 22-4-12-3;**

37 **(4) not to be denied for the failure of a recipient to register for**
 38 **work as required by section 2 of this chapter;**

39 **(5) not to be denied for the failure to meet any of the**
 40 **requirements of section 3(a) of this chapter; and**

41 **(6) not to be denied or terminated due to the failure of the**
 42 **applicant or recipient to apply for or accept available and**

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1 **suitable employment as set forth in IC 22-4-15-2.**

2 **(f) This section does not apply to a noncertificated employee of**
 3 **a school corporation for any weeks of unemployment claims other**
 4 **than between academic years or terms.**

5 SECTION 5. IC 22-4-15-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **This section**
 7 **does not apply to a noncertificated employee of a school**
 8 **corporation who is receiving benefits for a period of more than one**
 9 **(1) month between two (2) successive academic years or terms.**

10 **(b)** With respect to benefit periods established on and after July 3,
 11 1977, an individual is ineligible for waiting period or benefit rights, or
 12 extended benefit rights, if the department finds that, being totally,
 13 partially, or part-totally unemployed at the time when the work offer is
 14 effective or when the individual is directed to apply for work, the
 15 individual fails without good cause:

16 (1) to apply for available, suitable work when directed by the
 17 commissioner, the deputy, or an authorized representative of the
 18 department of workforce development or the United States
 19 training and employment service;

20 (2) to accept, at any time after the individual is notified of a
 21 separation, suitable work when found for and offered to the
 22 individual by the commissioner, the deputy, or an authorized
 23 representative of the department of workforce development or the
 24 United States training and employment service, or an employment
 25 unit; or

26 (3) to return to the individual's customary self-employment when
 27 directed by the commissioner or the deputy.

28 ~~(b)~~ **(c)** With respect to benefit periods established on and after July
 29 6, 1980, the ineligibility shall continue for the week in which the
 30 failure occurs and until the individual earns remuneration in
 31 employment equal to or exceeding the weekly benefit amount of the
 32 individual's claim in each of eight (8) weeks. If the qualification
 33 amount has not been earned at the expiration of an individual's benefit
 34 period, the unearned amount shall be carried forward to an extended
 35 benefit period or to the benefit period of a subsequent claim.

36 ~~(c)~~ **(d)** With respect to extended benefit periods established on and
 37 after July 5, 1981, the ineligibility shall continue for the week in which
 38 the failure occurs and until the individual earns remuneration in
 39 employment equal to or exceeding the weekly benefit amount of the
 40 individual's claim in each of four (4) weeks.

41 ~~(d)~~ **(e)** If an individual failed to apply for or accept suitable work as
 42 outlined in this section, the maximum benefit amount of the

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1 individual's current claim, as initially determined, shall be reduced by
 2 twenty-five percent (25%). If twenty-five percent (25%) of the
 3 maximum benefit amount is not an even dollar amount, the amount of
 4 such reduction shall be raised to the next higher even dollar amount.
 5 When twenty-five percent (25%) of the maximum benefit amount, as
 6 initially determined, exceeds the unpaid balance remaining in the
 7 claim, such reduction shall be limited to the unpaid balance.

8 ~~(e)~~ **(f)** In determining whether or not any such work is suitable for
 9 an individual, the department shall consider:

- 10 (1) the degree of risk involved to such individual's health, safety,
 11 and morals;
- 12 (2) the individual's physical fitness and prior training and
 13 experience;
- 14 (3) the individual's length of unemployment and prospects for
 15 securing local work in the individual's customary occupation; and
 16 (4) the distance of the available work from the individual's
 17 residence.

18 However, work under substantially the same terms and conditions
 19 under which the individual was employed by a base-period employer,
 20 which is within the individual's prior training and experience and
 21 physical capacity to perform, shall be considered to be suitable work
 22 unless the claimant has made a bona fide change in residence which
 23 makes such offered work unsuitable to the individual because of the
 24 distance involved.

25 ~~(f)~~ **(g)** Notwithstanding any other provisions of this article, no work
 26 shall be considered suitable and benefits shall not be denied under this
 27 article to any otherwise eligible individual for refusing to accept new
 28 work under any of the following conditions:

- 29 (1) If the position offered is vacant due directly to a strike,
 30 lockout, or other labor dispute.
- 31 (2) If the remuneration, hours, or other conditions of the work
 32 offered are substantially less favorable to the individual than
 33 those prevailing for similar work in the locality.
- 34 (3) If as a condition of being employed the individual would be
 35 required to join a company union or to resign from or refrain from
 36 joining a bona fide labor organization.
- 37 (4) If as a condition of being employed the individual would be
 38 required to discontinue training into which the individual had
 39 entered with the approval of the department.

40 ~~(g)~~ **(h)** Notwithstanding subsection ~~(e)~~; **(f)**, with respect to extended
 41 benefit periods established on and after July 5, 1981, "suitable work"
 42 means any work which is within an individual's capabilities. However,



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1 if the individual furnishes evidence satisfactory to the department that
 2 the individual's prospects for obtaining work in the individual's
 3 customary occupation within a reasonably short period are good, the
 4 determination of whether any work is suitable work shall be made as
 5 provided in subsection ~~(e)~~: **(f)**.

6 ~~(h)~~ **(i)** With respect to extended benefit periods established on and
 7 after July 5, 1981, no work shall be considered suitable and extended
 8 benefits shall not be denied under this article to any otherwise eligible
 9 individual for refusing to accept new work under any of the following
 10 conditions:

11 (1) If the gross average weekly remuneration payable to the
 12 individual for the position would not exceed the sum of:

13 (A) the individual's average weekly benefit amount for the
 14 individual's benefit year; plus

15 (B) the amount (if any) of supplemental unemployment
 16 compensation benefits (as defined in Section 501(c)(17)(D) of
 17 the Internal Revenue Code) payable to the individual for such
 18 week.

19 (2) If the position was not offered to the individual in writing or
 20 was not listed with the department of workforce development.

21 (3) If such failure would not result in a denial of compensation
 22 under the provisions of this article to the extent that such
 23 provisions are not inconsistent with the applicable federal law.

24 (4) If the position pays wages less than the higher of:

25 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The
 26 Fair Labor Standards Act of 1938), without regard to any
 27 exemption; or

28 (B) the state minimum wage (IC 22-2-2).

29 ~~(i)~~ **(j)** The department of workforce development shall refer
 30 individuals eligible for extended benefits to any suitable work (as
 31 defined in subsection ~~(g)~~ **(h)**) to which subsection ~~(h)~~ **(i)** would not
 32 apply.

33 **SECTION 6. An emergency is declared for this act.**

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