

Adopted Rejected

COMMITTEE REPORT

YES: 7
NO: 4

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1269, 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:*

- 1 Page 5, line 3, delete "by a" and insert "**in whole or in part out of**".
- 2 Page 5, line 3, delete "fund" and insert "**funds**".
- 3 Page 5, line 16, delete "or".
- 4 Page 6, line 17, delete "." and insert "**; or**
- 5 **(3) the individual is an owner-operator that provides a motor**
- 6 **vehicle and the services of a driver under a written contract**
- 7 **that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR**
- 8 **1057, to a motor carrier.**".
- 9 Page 6, line 20, delete "(a)(4)" and insert "**(a)(2)**".
- 10 Page 6, line 33, after "(d)" insert "**A contractor shall maintain**
- 11 **records for a period of not less than five(5) years for an individual**
- 12 **performing services for the contractor, regardless of whether the**
- 13 **individual is classified as:**
- 14 **(1) an employee;**

- 1 **(2) an independent contractor;**
 2 **(3) a sole proprietor; or**
 3 **(4) a partnership.**
 4 **(e)".**
 5 Page 7, line 1, delete "tax" and insert "individual taxpayer".
 6 Page 7, delete line 2.
 7 Page 7, line 16, delete ", including the" and insert ".".
 8 Page 7, delete line 17.
 9 Page 7, line 28, delete "or a rule adopted under this".
 10 Page 7, line 29, delete "chapter".
 11 Page 8, line 3, delete "chapter or a rule adopted under" and insert
 12 **"chapter;"**.
 13 Page 8, line 4, delete "this chapter;".
 14 Page 8, delete lines 12 through 36.
 15 Page 9, line 1, after "chapter" insert **"for a second or subsequent**
 16 **violation"**.
 17 Page 9, line 2, delete "unrelated offense described in this" and insert
 18 **"violation"**.
 19 Page 9, line 3, delete "subsection".
 20 Page 9, line 20, after "The" insert **"complaint shall be filed on a**
 21 **form to be supplied by the department and in a manner prescribed**
 22 **by the department. The"**.
 23 Page 9, line 27, after "of" delete "method" and insert **"methods"**.
 24 Page 9, line 31, delete "A".
 25 Page 9, delete lines 32 through 34.
 26 Page 10, line 10, after "(15)" insert **"calendar"**.
 27 Page 10, line 20, after "(10)" insert **"calendar"**.
 28 Page 10, line 35, delete "A party who appears at the conference
 29 exclusively through".
 30 Page 10, delete lines 36 through 39.
 31 Page 10, line 40, delete "of the events at issue".
 32 Page 10, run in lines 35 through 40.
 33 Page 10, line 42, delete "A contractor's failure" and insert **"If a**
 34 **contractor fails"**.
 35 Page 10, line 42, after "conference" insert ", **the department may**
 36 **make a finding that there is a violation of"**.
 37 Page 11, line 1, delete "constitutes evidence that the contractor has
 38 violated".

- 1 Page 11, line 21, delete "or a rule adopted".
- 2 Page 11, line 22, delete "under this chapter".
- 3 Page 11, line 24, after "chapter" insert ";".
- 4 Page 11, line 24, delete "or the rule;".
- 5 Page 12, line 7, delete "fifteen (15) business" and insert "**ten (10)**
- 6 **working**".
- 7 Page 12, line 10, delete "A" and insert "**The department shall mail**
- 8 **a copy of the petition for review to the complainant and to any**
- 9 **interested party designated on the complaint. The contractor shall**
- 10 **post a**".
- 11 Page 12, line 10, delete "shall be posted".
- 12 Page 12, line 12, after "place" insert "**where**".
- 13 Page 12, line 12, delete "occurred so that the individual whose" and
- 14 insert "**occurred, or if the contractor is no longer performing**
- 15 **services at the place where the alleged violation occurred, at the**
- 16 **contractor's principal place of business in a conspicuous place**
- 17 **where labor notices regularly are posted.**".
- 18 Page 12, delete line 13.
- 19 Page 12, line 14, delete "aware of the contested petition.".
- 20 Page 12, line 17, after "department." insert "**The department shall**
- 21 **rule on the petition for review within thirty (30) calendar days**
- 22 **after receipt. If the contractor or an agent of the contractor does**
- 23 **not file a petition for review within the ten (10) working day**
- 24 **period, the department's determination shall be final.**
- 25 **(d) After the second or subsequent violation determined by the**
- 26 **department that occurs within five (5) years of an earlier violation,**
- 27 **the department shall notify the contractor or the agent of the**
- 28 **contractor of the determination and of the right of the contractor**
- 29 **or agent of the contractor to seek a hearing on the determination,**
- 30 **which must be requested in writing within ten (10) working days**
- 31 **after the date of the notice and in accordance with IC 4-21.5-3-2.**
- 32 **The failure to request a hearing within the ten (10) working day**
- 33 **period will result in immediate placement and publication of the**
- 34 **contractor's name on a list maintained on the Internet web site of**
- 35 **the department as required under section 15(b) of this chapter. If**
- 36 **the contractor or agent of the contractor requests a timely hearing,**
- 37 **the commissioner shall set a hearing on the alleged violation. The**
- 38 **hearing must take place not more than forty-five (45) calendar**

- 1 **days after the receipt of the request for the hearing by the**
 2 **department. The hearing must be held in accordance with**
 3 **IC 4-21.5. If the department finds against the contractor or the**
 4 **agent of the contractor, the name of the contractor or the agent of**
 5 **the contractor shall be added to the list. A contract for a public**
 6 **work may not be awarded by the state or a political subdivision to:**
 7 **(1) a contractor whose name appears on the list; or**
 8 **(2) a firm, a corporation, a partnership, or an association in**
 9 **which the contractor has an interest;**
 10 **until four (4) years have elapsed after the posting of the name on**
 11 **the list."**
- 12 Page 13, line 10, delete "or a rule adopted under this chapter".
 13 Page 13, line 21, after "(2)" insert "**any other**".
 14 Page 13, line 22, delete "chapter or a rule" and insert "**chapter;**".
 15 Page 13, delete line 23.
 16 Page 13, line 24, after "(3) insert "**in the case of an intentional**
 17 **violation or obstruction of the department during an inspection,**".
 18 Page 14, line 27, delete "established" and insert "**created**".
 19 Page 14, line 38, delete "established" and insert "**created**".
 (Reference is to HB 1269 as introduced.)

and when so amended that said bill do pass.

Representative Niezgodski