
HOUSE BILL No. 1138

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-4-7; IC 33-28-5-24.5; IC 35-44-2-4.

Synopsis: Continuation of wages when serving as a juror. Requires an employer to continue the wages or salary of an employee who has been summoned for jury service. Provides that an employer may require an employee whose wages or salary have been continued by the employer because the employee has been summoned for jury service to reimburse the employer for the amount that was paid to the employee by the county, city, or town for jury service. Allows an action to be filed in court by an employee who is due wages or salary from the employer for the time spent away from employment for jury service, and allows additional liquidated damages and reasonable attorney's fees to be awarded by the court. Provides that: (1) an employee of a governmental entity who accepts property from a governmental entity; or (2) a public servant who permits the payment of property to an employee of a governmental entity; for jury service does not commit ghost employment.

Effective: July 1, 2011.

Stevenson

January 6, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1138



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 22-2-4-7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 7. IC 33-28-5-24.5 applies to the continuation of**
4 **wages or salary if an employee has been summoned and reports for**
5 **jury service.**

6 SECTION 2. IC 33-28-5-24.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2011]: **Sec. 24.5. (a) An employer shall**
9 **continue the wages or salary of an employee who:**

- 10 (1) **has been summoned for jury service; and**
- 11 (2) **reports to the summoning court on the day specified in the**
- 12 **summons until the jury is impaneled or after impaneling and**
- 13 **until the jury is discharged.**

14 (b) **An employer may require an employer whose wages or**
15 **salary have been continued by the employer because the employee**
16 **has been summoned for jury service to reimburse the employer for**
17 **the amount that was paid to the employee under**



1 IC 33-37-10-1(a)(2) or IC 33-37-10-1(d), or both. An employee who
2 fails to reimburse the employer for the sum paid under
3 IC 33-37-10-1(a)(2) or IC 33-37-10-1(d), or both, when requested
4 to do so by the employer may face disciplinary sanctions by the
5 employer.

6 (c) An individual serving on a jury on July 1, 2011, shall receive
7 the continuation of wages or salary under this chapter for serving
8 on a jury after June 30, 2011.

9 (d) If an employer fails to make payment of wages or salary to
10 an employee as provided in subsection (a), the employee may file
11 an action in a court having jurisdiction of a suit to recover the
12 amount due to the employee. In addition to the outstanding wages
13 or salary, as liquidated damages for the failure to make the
14 payment of wages or salary, the employer shall pay ten percent
15 (10%) of the amount due to the employee for each day that the
16 amount due to the employee remains unpaid, not to exceed double
17 the amount of wages or salary due. In a suit brought to recover the
18 wages or salary and the liquidated damages for nonpayment, the
19 court shall tax and assess reasonable attorney's fees as costs.

20 (e) Subsection (a) does not:
21 (1) excuse noncompliance with a provision of a collective
22 bargaining agreement or other employment benefit program
23 or plan in effect on July 1, 2011, that is not in substantial
24 conflict with subsection (a); or
25 (2) justify an employer in reducing employment benefits for
26 jury service provided by the employer that exceed the benefits
27 required by subsection (a).

28 SECTION 3. IC 35-44-2-4 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) A public servant
30 who knowingly or intentionally:

- 31 (1) hires an employee for the governmental entity that ~~he~~ **the**
32 **public servant** serves; and
 - 33 (2) fails to assign to the employee any duties, or assigns to the
34 employee any duties not related to the operation of the
35 governmental entity;
- 36 commits ghost employment, a Class D felony.

37 (b) A public servant who knowingly or intentionally assigns to an
38 employee under ~~his~~ **the public servant's** supervision any duties not
39 related to the operation of the governmental entity that ~~he~~ **the public**
40 **servant** serves commits ghost employment, a Class D felony.

41 (c) A person employed by a governmental entity who, knowing that
42 ~~he~~ **the person** has not been assigned any duties to perform for the

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1 entity, accepts property from the entity commits ghost employment, a
2 Class D felony.

3 (d) A person employed by a governmental entity who knowingly or
4 intentionally accepts property from the entity for the performance of
5 duties not related to the operation of the entity commits ghost
6 employment, a Class D felony.

7 (e) Any person who accepts property from a governmental entity in
8 violation of this section and any public servant who permits the
9 payment of property in violation of this section are jointly and severally
10 liable to the governmental entity for that property. The attorney general
11 may bring a civil action to recover that property in the county where the
12 governmental entity is located or the person or public servant resides.

13 (f) For the purposes of this section, an employee of a governmental
14 entity who voluntarily performs services:

- 15 (1) that do not:
 - 16 (A) promote religion;
 - 17 (B) attempt to influence legislation or governmental policy; or
 - 18 (C) attempt to influence elections to public office;
- 19 (2) for the benefit of:
 - 20 (A) another governmental entity; or
 - 21 (B) an organization that is exempt from federal income
22 taxation under Section 501(c)(3) of the Internal Revenue
23 Code;
 - 24 (3) with the approval of the employee's supervisor; and
 - 25 (4) in compliance with a policy or regulation that:
 - 26 (A) is in writing;
 - 27 (B) is issued by the executive officer of the governmental
28 entity; and
 - 29 (C) contains a limitation on the total time during any calendar
30 year that the employee may spend performing the services
31 during normal hours of employment;

32 is considered to be performing duties related to the operation of the
33 governmental entity.

34 **(g) For purposes of this section:**
 35 **(1) an employee of a governmental entity who accepts**
 36 **property from a governmental entity; or**
 37 **(2) a public servant who permits the payment of property to**
 38 **an employee of a governmental entity;**
 39 **for jury service as set forth in IC 33-28-5-24.5 does not commit**
 40 **ghost employment.**

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