

HOUSE BILL No. 1277

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Work sharing unemployment insurance program. Establishes a work sharing unemployment insurance program. Requires an employer to submit a work sharing plan for approval by the commissioner of the department of workforce development. Establishes the work sharing benefit as equal to an employee's unemployment benefit reduced by a percentage equal to the percentage of the employee's normal weekly work hours that the employee works under the approved work sharing plan.

Effective: July 1, 2021.

Hatfield, Hamilton

January 14, 2021, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1277

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 22-4-15-1, AS AMENDED BY P.L.224-2017,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 1. (a) Regarding an individual's most recent
4 separation from employment before filing an initial or additional claim
5 for benefits, an individual who voluntarily left the employment without
6 good cause in connection with the work or was discharged from the
7 employment for just cause is ineligible for waiting period or benefit
8 rights for the week in which the disqualifying separation occurred and
9 until:
10 (1) the individual has earned remuneration in employment in at
11 least eight (8) weeks; and
12 (2) the remuneration earned equals or exceeds the product of the
13 weekly benefit amount multiplied by eight (8).
14 If the qualification amount has not been earned at the expiration of an
15 individual's benefit period, the unearned amount shall be carried
16 forward to an extended benefit period or to the benefit period of a
17 subsequent claim.



1 (b) When it has been determined that an individual has been
2 separated from employment under disqualifying conditions as outlined
3 in this section, the maximum benefit amount of the individual's current
4 claim, as initially determined, shall be reduced by an amount
5 determined as follows:

6 (1) For the first separation from employment under disqualifying
7 conditions, the maximum benefit amount of the individual's
8 current claim is equal to the result of:

9 (A) the maximum benefit amount of the individual's current
10 claim, as initially determined; multiplied by

11 (B) seventy-five percent (75%);

12 rounded (if not already a multiple of one dollar (\$1)) to the next
13 higher dollar.

14 (2) For the second separation from employment under
15 disqualifying conditions, the maximum benefit amount of the
16 individual's current claim is equal to the result of:

17 (A) the maximum benefit amount of the individual's current
18 claim determined under subdivision (1); multiplied by

19 (B) eighty-five percent (85%);

20 rounded (if not already a multiple of one dollar (\$1)) to the next
21 higher dollar.

22 (3) For the third and any subsequent separation from employment
23 under disqualifying conditions, the maximum benefit amount of
24 the individual's current claim is equal to the result of:

25 (A) the maximum benefit amount of the individual's current
26 claim determined under subdivision (2); multiplied by

27 (B) ninety percent (90%);

28 rounded (if not already a multiple of one dollar (\$1)) to the next
29 higher dollar.

30 (c) The disqualifications provided in this section shall be subject to
31 the following modifications:

32 (1) An individual shall not be subject to disqualification because
33 of separation from the individual's employment if:

34 (A) the individual left to accept with another employer
35 previously secured permanent full-time work which offered
36 reasonable expectation of continued covered employment and
37 betterment of wages or working conditions and thereafter was
38 employed on said job;

39 (B) having been simultaneously employed by two (2)
40 employers, the individual leaves one (1) such employer
41 voluntarily without good cause in connection with the work
42 but remains in employment with the second employer with a



- 1 reasonable expectation of continued employment; or
2 (C) the individual left to accept recall made by a base period
3 employer.
- 4 (2) An individual whose unemployment is the result of medically
5 substantiated physical disability and who is involuntarily
6 unemployed after having made reasonable efforts to maintain the
7 employment relationship shall not be subject to disqualification
8 under this section for such separation.
- 9 (3) An individual who left work to enter the armed forces of the
10 United States shall not be subject to disqualification under this
11 section for such leaving of work.
- 12 (4) An individual whose employment is terminated under the
13 compulsory retirement provision of a collective bargaining
14 agreement to which the employer is a party, or under any other
15 plan, system, or program, public or private, providing for
16 compulsory retirement and who is otherwise eligible shall not be
17 deemed to have left the individual's work voluntarily without
18 good cause in connection with the work. However, if such
19 individual subsequently becomes reemployed and thereafter
20 voluntarily leaves work without good cause in connection with the
21 work, the individual shall be deemed ineligible as outlined in this
22 section.
- 23 (5) An otherwise eligible individual shall not be denied benefits
24 for any week because the individual is in training approved under
25 Section 236(a)(1) of the Trade Act of 1974, nor shall the
26 individual be denied benefits by reason of leaving work to enter
27 such training, provided the work left is not suitable employment,
28 or because of the application to any week in training of provisions
29 in this law (or any applicable federal unemployment
30 compensation law), relating to availability for work, active search
31 for work, or refusal to accept work. For purposes of this
32 subdivision, the term "suitable employment" means with respect
33 to an individual, work of a substantially equal or higher skill level
34 than the individual's past adversely affected employment (as
35 defined for purposes of the Trade Act of 1974), and wages for
36 such work at not less than eighty percent (80%) of the individual's
37 average weekly wage as determined for the purposes of the Trade
38 Act of 1974.
- 39 (6) An individual is not subject to disqualification because of
40 separation from the individual's employment if:
41 (A) the employment was outside the individual's labor market;
42 (B) the individual left to accept previously secured full-time



- 1 work with an employer in the individual's labor market; and
 2 (C) the individual actually became employed with the
 3 employer in the individual's labor market.
- 4 (7) An individual who, but for the voluntary separation to move
 5 to another labor market to join a spouse who had moved to that
 6 labor market, shall not be disqualified for that voluntary
 7 separation, if the individual is otherwise eligible for benefits.
 8 Benefits paid to the spouse whose eligibility is established under
 9 this subdivision shall not be charged against the employer from
 10 whom the spouse voluntarily separated.
- 11 (8) An individual shall not be subject to disqualification if the
 12 individual voluntarily left employment or was discharged due to
 13 circumstances directly caused by domestic or family violence (as
 14 defined in IC 31-9-2-42). An individual who may be entitled to
 15 benefits based on this modification may apply to the office of the
 16 attorney general under IC 5-26.5 to have an address designated by
 17 the office of the attorney general to serve as the individual's
 18 address for purposes of this article.
- 19 **(9) An individual who is an affected employee (as defined in**
 20 **IC 22-4-44-1) and is subject to the work sharing**
 21 **unemployment insurance program under IC 22-4-44 is not**
 22 **disqualified for participating in the work sharing**
 23 **unemployment insurance program.**
- 24 As used in this subsection, "labor market" means the area surrounding
 25 an individual's permanent residence, outside which the individual
 26 cannot reasonably commute on a daily basis. In determining whether
 27 an individual can reasonably commute under this subdivision, the
 28 department shall consider the nature of the individual's job.
- 29 (d) "Discharge for just cause" as used in this section is defined to
 30 include but not be limited to:
- 31 (1) separation initiated by an employer for falsification of an
 32 employment application to obtain employment through
 33 subterfuge;
 - 34 (2) knowing violation of a reasonable and uniformly enforced rule
 35 of an employer, including a rule regarding attendance;
 - 36 (3) if an employer does not have a rule regarding attendance, an
 37 individual's unsatisfactory attendance, if good cause for absences
 38 or tardiness is not established;
 - 39 (4) damaging the employer's property through willful negligence;
 - 40 (5) refusing to obey instructions;
 - 41 (6) reporting to work under the influence of alcohol or drugs or
 42 consuming alcohol or drugs on employer's premises during



1 working hours;

2 (7) conduct endangering safety of self or coworkers;

3 (8) incarceration in jail following conviction of a misdemeanor or
4 felony by a court of competent jurisdiction;

5 (9) any breach of duty in connection with work which is
6 reasonably owed an employer by an employee; or

7 (10) testing positive on a drug test under IC 16-27-2.5.

8 (e) To verify that domestic or family violence has occurred, an
9 individual who applies for benefits under subsection (c)(8) shall
10 provide one (1) of the following:

11 (1) A report of a law enforcement agency (as defined in
12 IC 10-13-3-10).

13 (2) A protection order issued under IC 34-26-5.

14 (3) A foreign protection order (as defined in IC 34-6-2-48.5).

15 (4) An affidavit from a domestic violence service provider
16 verifying services provided to the individual by the domestic
17 violence service provider.

18 SECTION 2. IC 22-4-44 IS ADDED TO THE INDIANA CODE AS
19 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2021]:

21 **Chapter 44. Work Sharing Unemployment Insurance Program**

22 **Sec. 1. As used in this chapter, "affected employee" means an**
23 **individual who:**

24 (1) has been continuously on the payroll of an affected unit for
25 at least three (3) months; and

26 (2) works at least thirty (30) normal weekly work hours for
27 the affected unit before a reduction under an approved work
28 sharing plan.

29 **Sec. 2. As used in this chapter, "affected unit" means a specific**
30 **plant, department, shift, or other definable unit of an employing**
31 **unit:**

32 (1) that has at least two (2) employees; and

33 (2) to which an approved work sharing plan applies.

34 **Sec. 3. As used in this chapter, "approved work sharing plan"**
35 **means a plan that satisfies the purposes set forth in section 14 of**
36 **this chapter and has the approval of the commissioner.**

37 **Sec. 4. As used in this chapter, "commissioner" refers to the**
38 **commissioner of the department of workforce development**
39 **appointed under IC 22-4.1-3-1.**

40 **Sec. 5. As used in this chapter, "intermittent employment"**
41 **means periodic intervals that are not continuous during which an**
42 **individual works for an employing unit.**



1 **Sec. 6. As used in this chapter, "normal weekly work hours"**
2 **means the lesser of the following:**

3 **(1) The number of hours that an employee in the affected unit**
4 **works when the unit is operating on its normal full-time basis.**

5 **(2) Forty (40) hours.**

6 **Sec. 7. As used in this chapter, "part-time employment" means**
7 **that an individual works in a position for an employing unit in**
8 **which the number of scheduled work hours are fewer than the**
9 **normal weekly work hours for the position.**

10 **Sec. 8. As used in this chapter, "payment in lieu of**
11 **contributions" has the meaning set forth in IC 22-4-2-32.**

12 **Sec. 9. As used in this chapter, "seasonal employment" has the**
13 **meaning set forth in IC 22-4-8-4.**

14 **Sec. 10. As used in this chapter, "work sharing benefit" means**
15 **a benefit payable to an affected employee for work performed**
16 **under an approved work sharing plan, but does not include**
17 **benefits that are otherwise payable under this article.**

18 **Sec. 11. As used in this chapter, "work sharing employer"**
19 **means an employing unit for which a work sharing plan has been**
20 **approved.**

21 **Sec. 12. As used in this chapter, "work sharing plan" means a**
22 **plan of an employing unit under which:**

23 **(1) normal weekly work hours of the affected employees are**
24 **reduced instead of a layoff of a part or all of the affected**
25 **employees; and**

26 **(2) the affected employees share the work that remains after**
27 **the reduction.**

28 **Sec. 13. As used in this chapter, "work sharing unemployment**
29 **insurance program" refers to the program established by section**
30 **14 of this chapter.**

31 **Sec. 14. The work sharing unemployment insurance program is**
32 **established to:**

33 **(1) preserve the jobs of employees and the workforce of an**
34 **employer during lowered economic activity by a reduction in**
35 **work hours or work days rather than by a layoff of some**
36 **employees while other employees continue their normal**
37 **weekly work hours or work days; and**

38 **(2) ameliorate the adverse effect of reduction in business**
39 **activity by providing benefits for the part of the normal**
40 **weekly work hours or work days in which an employee does**
41 **not work.**

42 **Sec. 15. (a) An employing unit that meets all the following**



1 requirements is eligible to participate in the work sharing
2 unemployment insurance program established by this chapter:

3 (1) The employing unit is subject to this article for wages paid
4 during a calendar year.

5 (2) The employing unit's:

6 (A) contribution rate for the calendar year; or

7 (B) payment in lieu of contributions;

8 is determined under IC 22-4-10, IC 22-4-11, IC 22-4-11.5, or
9 IC 22-4-37-3.

10 (3) The employing unit is not delinquent as determined under
11 IC 22-4-11-2.

12 (b) An employing unit that:

13 (1) meets the eligibility requirements under subsection (a);
14 and

15 (2) wishes to participate in the work sharing unemployment
16 insurance program established by this chapter;

17 shall submit to the commissioner a written work sharing plan.

18 Sec. 16. (a) Not later than fifteen (15) days after receipt of a
19 work sharing plan, the commissioner shall give written approval
20 or disapproval of the plan to the employing unit.

21 (b) The decision of the commissioner to disapprove a work
22 sharing plan is final and may not be appealed.

23 (c) An employing unit may not submit a new work sharing plan
24 less than fifteen (15) days after the date of the commissioner's
25 disapproval of a work sharing plan under subsection (a).

26 Sec. 17. The commissioner shall approve a work sharing plan
27 that meets the following requirements:

28 (1) The work sharing plan must apply to:

29 (A) at least ten percent (10%) of the employees in an
30 affected unit; or

31 (B) at least two (2) employees in an affected unit.

32 (2) The normal weekly work hours of the affected employees
33 in the affected unit shall be reduced by at least ten percent
34 (10%), but the reduction may not exceed fifty percent (50%).

35 The reduction in normal weekly work hours must be spread
36 equally among the affected employees.

37 Sec. 18. (a) A work sharing plan must:

38 (1) identify the affected unit or units to which the work
39 sharing plan applies;

40 (2) state:

41 (A) the reason or reasons resulting in the reduction in
42 normal weekly work hours under section 17(2) of this



- 1 chapter; and
- 2 (B) the expected duration of the reduction in normal
- 3 weekly work hours under section 17(2) of this chapter;
- 4 (3) specify the effective date of the work sharing plan;
- 5 (4) identify each employee in the affected unit by:
- 6 (A) name;
- 7 (B) Social Security number;
- 8 (C) the employee's normal weekly work hours;
- 9 (D) the reduction in the number of hours and the amount
- 10 of wages proposed for the employee by the work sharing
- 11 plan; and
- 12 (E) any other information the commissioner requires;
- 13 (5) specify an expiration date that is not more than twelve (12)
- 14 months after the effective date of the work sharing plan;
- 15 (6) specify that the work sharing plan will not affect the fringe
- 16 benefits of any employee in the affected unit, including:
- 17 (A) health insurance for hospital, medical, dental, and
- 18 similar services;
- 19 (B) retirement benefits under benefit pension plans as
- 20 defined in the federal Employee Retirement Income
- 21 Security Act (29 U.S.C. 1001 et seq.);
- 22 (C) holiday and vacation pay;
- 23 (D) sick leave; and
- 24 (E) other similar benefits that are incidents of
- 25 employment; and
- 26 (7) certify that:
- 27 (A) each affected employee:
- 28 (i) has been continuously on the payroll of the employing
- 29 unit for at least three (3) months; and
- 30 (ii) works at least thirty (30) normal weekly work hours
- 31 for the affected unit;
- 32 immediately before the date on which the employing unit
- 33 submits the work sharing plan;
- 34 (B) the total reduction in normal weekly work hours is in
- 35 place of layoffs that would have:
- 36 (i) affected at least the number of employees specified in
- 37 section 17(1) of this chapter; and
- 38 (ii) resulted in an equivalent reduction in work hours;
- 39 and
- 40 (C) the work sharing plan will not serve as a subsidy of:
- 41 (i) seasonal employment outside the employer's seasonal
- 42 period or periods as determined by the department



1 under IC 22-4-7-3;

2 (ii) temporary part-time employment; or

3 (iii) intermittent employment.

4 (b) A work sharing plan may include an option that allows an
5 affected employee to attend work related training or retraining
6 approved by the employing unit during the affected employee's
7 work hours. The commissioner shall approve the training offered
8 under this subsection.

9 Sec. 19. If the affected unit includes employees covered by one
10 (1) or more collective bargaining agreements, the employing unit
11 shall submit with the written work sharing plan described in
12 section 18 of this chapter the written approval of the collective
13 bargaining agent or representative for each collective bargaining
14 agreement that covers any affected employee in the affected unit.

15 Sec. 20. If the affected unit does not have any employees covered
16 by a collective bargaining agreement, the employing unit shall
17 submit with the written work sharing plan described in section 18
18 of this chapter a certification that the proposed work sharing plan,
19 or a summary of the work sharing plan, has been made available
20 to each affected employee in the affected unit.

21 Sec. 21. A work sharing employer shall agree to:

22 (1) submit reports that are necessary to administer the work
23 sharing plan; and

24 (2) allow the department to have access to all records
25 necessary to:

26 (A) verify the work sharing plan before its approval; and

27 (B) monitor and evaluate the application of the work
28 sharing plan after its approval.

29 Sec. 22. (a) An approved work sharing plan may be modified if:

30 (1) the modification meets the requirements for approval
31 under section 17 of this chapter; and

32 (2) the commissioner approves the modification.

33 (b) An employing unit may add an employee who works at least
34 thirty (30) normal weekly work hours to a work sharing plan when
35 the employee has been continuously on the payroll for at least three
36 (3) months.

37 (c) The commissioner shall not approve a modification of a work
38 sharing plan that changes the expiration date of the work sharing
39 plan.

40 (d) The decision of the commissioner to disapprove a
41 modification to a work sharing plan is final and may not be
42 appealed.



1 **Sec. 23. (a) An affected employee is eligible under this chapter**
 2 **to receive work sharing benefits for each week in which the**
 3 **commissioner determines that the affected employee is:**

4 **(1) able to work; and**

5 **(2) available for more hours of work or full-time work for the**
 6 **work sharing employer.**

7 **(b) An affected employee who otherwise is eligible to receive**
 8 **work sharing benefits may not be denied work sharing benefits for**
 9 **lack of effort to secure work as set forth in IC 22-4-14-3 or for**
 10 **failure to apply for available suitable work as set forth in**
 11 **IC 22-4-15-2 from a person other than the work sharing employer.**

12 **(c) An affected employee shall apply for benefits under**
 13 **IC 22-4-17-1.**

14 **(d) An affected employee who otherwise is eligible for benefits**
 15 **is:**

16 **(1) considered to be unemployed for the purpose of the work**
 17 **sharing unemployment insurance program; and**

18 **(2) not subject to the requirements of IC 22-4-14-2.**

19 **Sec. 24. The weekly work sharing unemployment compensation**
 20 **benefit due to an affected employee is determined in STEP FIVE**
 21 **of the following formula:**

22 **STEP ONE: Determine the weekly benefit that would be due**
 23 **to the affected employee under IC 22-4-12-4.**

24 **STEP TWO: Subtract the number of the employee's work**
 25 **hours under the approved work sharing plan from the**
 26 **number of the employee's normal weekly work hours.**

27 **STEP THREE: Divide the STEP TWO result by the number**
 28 **of the employee's normal weekly work hours.**

29 **STEP FOUR: Multiply the number determined in STEP ONE**
 30 **by the quotient determined in STEP THREE.**

31 **STEP FIVE: If the product determined under STEP FOUR is**
 32 **not a multiple of one dollar (\$1), round down to the nearest**
 33 **lower multiple of one dollar (\$1).**

34 **Sec. 25. (a) An affected employee may not receive more than**
 35 **fifty-two (52) weeks of work sharing benefits during each benefit**
 36 **year.**

37 **(b) The total amount of benefits payable under IC 22-4-12-4 and**
 38 **work sharing benefits payable under this chapter may not exceed**
 39 **the total payable for the benefit year under IC 22-4-12-4(a).**

40 **Sec. 26. During a week in which an affected employee who is**
 41 **otherwise eligible for work sharing benefits does not work for the**
 42 **work sharing employer:**



- 1 (1) the employee shall be paid unemployment insurance
- 2 benefits in accordance with IC 22-4-12; and
- 3 (2) the week does not count as a week for which a work
- 4 sharing benefit is received.

5 **Sec. 27.** During a week in which an affected employee earns

6 wages under an approved work sharing plan and other wages, the

7 work sharing benefit shall be reduced by the same percentage that

8 the combined wages are to the wages for normal weekly work

9 hours if the other wages:

- 10 (1) exceed the wages earned under the approved work sharing
- 11 plan; and
- 12 (2) do not exceed ninety percent (90%) of the wages that the
- 13 employee earns for normal weekly work hours.

14 **This computation applies regardless of whether the employee**

15 **earned the other wages from the work sharing employer or**

16 **another employer.**

17 **Sec. 28.** While an affected employee applies for or receives work

18 sharing benefits, the affected employee is not eligible for:

- 19 (1) extended benefits under IC 22-4-12-4; or
- 20 (2) supplemental federal unemployment compensation.

21 **Sec. 29.** Work sharing benefits shall be charged to the work

22 sharing employer's experience balance in the same manner as

23 unemployment insurance is charged under this article. Employers

24 liable for payment in lieu of contributions shall have work sharing

25 benefits attributed to service in their employ in the same manner

26 as unemployment insurance is attributed under this article.

27 **Sec. 30. (a)** The commissioner may revoke approval of an

28 approved work sharing plan for good cause, including:

- 29 (1) conduct or an occurrence that tends to defeat the intent
- 30 and effective operation of the approved work sharing plan;
- 31 (2) failure to comply with an assurance in the approved work
- 32 sharing plan;
- 33 (3) unreasonable revision of a productivity standard of the
- 34 affected unit; and
- 35 (4) violation of a criterion on which the commissioner based
- 36 the approval of the work sharing plan.

37 **(b)** An affected employee in an affected unit or the collective

38 bargaining agent or representative representing an affected

39 employee in an affected unit may request that the commissioner

40 take action to revoke the approval of an approved work sharing

41 plan.

42 **(c)** The commissioner shall give written notice of the revocation



1 to the employing unit specifying:
2 (1) the date the revocation is effective; and
3 (2) the reason or reasons for the revocation.
4 (d) If the affected unit includes employees covered by one (1) or
5 more collective bargaining agreements, the commissioner shall also
6 give the written notice described in subsection (c) to the collective
7 bargaining agent or representative for each collective bargaining
8 agreement that covers any affected employee in the affected unit.
9 (e) The commissioner's decision to revoke approval of an
10 approved work sharing plan is final and may not be appealed.
11 (f) The department shall review the operation of all approved
12 work sharing plans at least once during the period the work
13 sharing plan is in effect to ensure that the work sharing employer
14 is complying with the requirements of the work sharing plan
15 approved by the commissioner.

