

SENATE BILL No. 45

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.3-7-2; IC 5-14-3-2; IC 9-13-2-124; IC 9-13-2-138; IC 9-15-2-1; IC 9-15-2-2; IC 9-15-4-1; IC 9-16-1; IC 9-16-2; IC 9-16-3; IC 9-16-4.

Synopsis: License branch operations. Removes managers and employees of a license branch of the bureau of motor vehicles from membership in the public employees' retirement fund. Removes a license branch staffed by employees of the bureau of motor vehicles commission from the definition of public agency for access to public agency records. Requires the bureau of motor vehicles commission to contract for the operation of all full service license branches and for the provision of partial service branches.

Effective: July 1, 1999.

Meeks R

January 6, 1999, read first time and referred to Committee on Transportation and Interstate Cooperation.

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First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 45



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

- 1 SECTION 1. IC 5-10.3-7-2 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The following
- 3 employees may not be members of the fund:
- 4 (1) Officials of a political subdivision elected by vote of the
- 5 people, unless the governing body specifically provides for the
- 6 participation of locally elected officials.
- 7 (2) Employees occupying positions normally requiring
- 8 performance of service of less than six hundred (600) hours
- 9 during a year who:
- 10 (A) were hired before July 1, 1982; or
- 11 (B) are employed by a participating school corporation.
- 12 (3) Independent contractors or officers or employees paid wholly
- 13 on a fee basis.
- 14 (4) Employees who occupy positions that are covered by other
- 15 pension or retirement funds or plans, maintained in whole or in
- 16 part by appropriations by the state or a political subdivision,
- 17 except:



- 1 (A) the federal Social Security program; and
 2 (B) the prosecuting attorneys retirement fund created by
 3 IC 33-14-9.
 4 ~~(5) Managers or employees of a license branch of the bureau of~~
 5 ~~motor vehicles commission, except those persons who may be~~
 6 ~~included as members under IC 9-16-4.~~
 7 ~~(6) (5) Employees, except employees of a participating school~~
 8 ~~corporation, hired after June 30, 1982, occupying positions~~
 9 ~~normally requiring performance of service of less than one~~
 10 ~~thousand (1,000) hours during a year.~~
 11 ~~(7) (6) Persons who:~~
 12 (A) are employed by the state;
 13 (B) have been classified as federal employees by the Secretary
 14 of Agriculture of the United States; and
 15 (C) are covered by the federal Social Security program as
 16 federal employees under 42 U.S.C. 410.
 17 ~~(8) (7) Members and employees of the state lottery commission.~~
 18 SECTION 2. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter:
 20 "Copy" includes transcribing by handwriting, photocopying,
 21 xerography, duplicating machine, duplicating electronically stored data
 22 onto a disk, tape, drum, or any other medium of electronic data storage,
 23 and reproducing by any other means.
 24 "Direct cost" means one hundred five percent (105%) of the sum of
 25 the cost of:
 26 (1) the initial development of a program, if any;
 27 (2) the labor required to retrieve electronically stored data; and
 28 (3) any medium used for electronic output;
 29 for providing a duplicate of electronically stored data onto a disk, tape,
 30 drum, or other medium of electronic data retrieval under section 8(g)
 31 of this chapter, or for reprogramming a computer system under section
 32 6(c) of this chapter.
 33 "Electronic map" means copyrighted data provided by a public
 34 agency from an electronic geographic information system.
 35 "Enhanced access" means the inspection of a public record by a
 36 person other than a governmental entity and that:
 37 (1) is by means of an electronic device other than an electronic
 38 device provided by a public agency in the office of the public
 39 agency; or
 40 (2) requires the compilation or creation of a list or report that does
 41 not result in the permanent electronic storage of the information.
 42 "Facsimile machine" means a machine that electronically transmits

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1 exact images through connection with a telephone network.

2 "Inspect" includes the right to do the following:

3 (1) Manually transcribe and make notes, abstracts, or memoranda.

4 (2) In the case of tape recordings or other aural public records, to
5 listen and manually transcribe or duplicate, or make notes,
6 abstracts, or other memoranda from them.

7 (3) In the case of public records available:

8 (A) by enhanced access under section 3.5 of this chapter; or

9 (B) to a governmental entity under section 3(c)(2) of this
10 chapter;

11 to examine and copy the public records by use of an electronic
12 device.

13 (4) In the case of electronically stored data, to manually transcribe
14 and make notes, abstracts, or memoranda or to duplicate the data
15 onto a disk, tape, drum, or any other medium of electronic
16 storage.

17 "Investigatory record" means information compiled in the course of
18 the investigation of a crime.

19 "Patient" has the meaning set out in IC 16-18-2-272(c).

20 "Person" means an individual, a corporation, a limited liability
21 company, a partnership, an unincorporated association, or a
22 governmental entity.

23 "Provider" has the meaning set out in IC 16-18-2-295(b) and
24 includes employees of the state department of health or local boards of
25 health who create patient records at the request of another provider or
26 who are social workers and create records concerning the family
27 background of children who may need assistance.

28 "Public agency" means the following:

29 (1) Any board, commission, department, division, bureau,
30 committee, agency, office, instrumentality, or authority, by
31 whatever name designated, exercising any part of the executive,
32 administrative, judicial, or legislative power of the state.

33 (2) Any:

34 (A) county, township, school corporation, city, or town, or any
35 board, commission, department, division, bureau, committee,
36 office, instrumentality, or authority of any county, township,
37 school corporation, city, or town;

38 (B) political subdivision (as defined by IC 36-1-2-13); or

39 (C) other entity, or any office thereof, by whatever name
40 designated, exercising in a limited geographical area the
41 executive, administrative, judicial, or legislative power of the
42 state or a delegated local governmental power.



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- 1 (3) Any entity or office that is subject to:
 2 (A) budget review by either the state board of tax
 3 commissioners or the governing body of a county, city, town,
 4 township, or school corporation; or
 5 (B) an audit by the state board of accounts.
 6 (4) Any building corporation of a political subdivision that issues
 7 bonds for the purpose of constructing public facilities.
 8 (5) Any advisory commission, committee, or body created by
 9 statute, ordinance, or executive order to advise the governing
 10 body of a public agency, except medical staffs or the committees
 11 of any such staff.
 12 (6) Any law enforcement agency, which means an agency or a
 13 department of any level of government that engages in the
 14 investigation, apprehension, arrest, or prosecution of alleged
 15 criminal offenders, such as the state police department, the police
 16 or sheriff's department of a political subdivision, prosecuting
 17 attorneys, members of the excise police division of the alcoholic
 18 beverage commission, conservation officers of the department of
 19 natural resources, and the security division of the state lottery
 20 commission.
 21 ~~(7) Any license branch staffed by employees of the bureau of~~
 22 ~~motor vehicles commission under IC 9-16.~~
 23 ~~(8)~~ (7) The state lottery commission, including any department,
 24 division, or office of the commission.
 25 ~~(9)~~ (8) The Indiana gaming commission established under
 26 IC 4-33, including any department, division, or office of the
 27 commission.
 28 ~~(10)~~ (9) The Indiana horse racing commission established by
 29 IC 4-31, including any department, division, or office of the
 30 commission.
 31 "Public record" means any writing, paper, report, study, map,
 32 photograph, book, card, tape recording, or other material that is
 33 created, received, retained, maintained, used, or filed by or with a
 34 public agency and which is generated on paper, paper substitutes,
 35 photographic media, chemically based media, magnetic or machine
 36 readable media, electronically stored data, or any other material,
 37 regardless of form or characteristics.
 38 "Standard-sized documents" includes all documents that can be
 39 mechanically reproduced (without mechanical reduction) on paper
 40 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight
 41 and one-half (8 1/2) inches by fourteen (14) inches.
 42 "Trade secret" has the meaning set forth in IC 24-2-3-2.



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1 "Work product of an attorney" means information compiled by an
 2 attorney in reasonable anticipation of litigation and includes the
 3 attorney's:

- 4 (1) notes and statements taken during interviews of prospective
 5 witnesses; and
 6 (2) legal research or records, correspondence, reports, or
 7 memoranda to the extent that each contains the attorney's
 8 opinions, theories, or conclusions.

9 This definition does not restrict the application of any exception under
 10 section 4 of this chapter.

11 SECTION 3. IC 9-13-2-124 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 124. (a) "Person"
 13 means, except as otherwise provided in this section, an individual, a
 14 firm, a partnership, an association, a fiduciary, an executor or
 15 administrator, a governmental entity, a limited liability company, or a
 16 corporation.

17 (b) "Person", for purposes of IC 9-14-3.5, does not include the state
 18 or an agency of the state.

19 (c) "Person", for purposes of IC 9-20-14, IC 9-20-15, and
 20 IC 9-20-18-13(b), means a mobile home or sectionalized building
 21 transport company, mobile home or sectionalized building
 22 manufacturer, mobile home or sectionalized building dealer, or mobile
 23 home or sectionalized building owner.

24 (d) "Person", for purposes of **IC 9-16** and IC 9-23, means an
 25 individual, a corporation, a limited liability company, an association,
 26 a partnership, a trust, or other entity. The term does not include the
 27 state, an agency of the state, or a municipal corporation.

28 SECTION 4. IC 9-15-2-1 IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 1999]: Sec. 1. The commission shall do the
 30 following:

- 31 (1) Develop and continuously update the bureau's policies.
 32 (2) Recommend to the governor legislation that is needed to
 33 implement the policies developed by the commission.
 34 (3) Recommend to the bureau proposed rules that are needed to
 35 implement the policies developed by the commission and require
 36 those proposed rules to be adopted under IC 4-22-2.
 37 (4) Review, revise, adopt, and submit to the budget agency budget
 38 proposals for the commission **and** the bureau. **and the license**
 39 **branches operated under IC 9-16, including the budget required**
 40 **by IC 9-16-3-3.**
 41 (5) ~~Establish the determination criteria and determine the number~~
 42 ~~and location of license branches to be operated under IC 9-16.~~



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- 1 However, there must be at least one ~~(1)~~ full service license branch
- 2 in each county.
- 3 ~~(6)~~ Establish and adopt minimum standards for the operation and
- 4 maintenance of each full service license branch operated under
- 5 ~~IC 9-16.~~
- 6 ~~(7)~~ **(5)** Before January 1, 1997, establish and adopt minimum
- 7 standards for the operation and maintenance of each partial
- 8 service contractor under IC 9-16. The standards must result in
- 9 more convenience to the public by providing license branch
- 10 services at as many walk-up locations as possible without
- 11 increasing the costs of providing these services.
- 12 ~~(8)~~ **(6)** Before March 1, 1997, establish and adopt minimum
- 13 standards for providing license branch services using telephonic,
- 14 facsimile, electronic, or computer means under IC 9-16.
- 15 ~~(9)~~ **(7)** Administer the state license branch fund established under
- 16 IC 9-29-14.

17 SECTION 5. IC 9-15-2-2 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 1999]: Sec. 2. **(a)** The commission may do the
 19 following:

- 20 (1) Procure insurance against any loss in connection with the
- 21 commission's operations in the amount the commission considers
- 22 necessary or desirable.
- 23 (2) Contract for ~~the operation of full service license branches~~
- 24 ~~under IC 9-16-1-4~~ and **the provision of** partial services under
- 25 IC 9-16-1-4.5.
- 26 (3) Take any other action necessary to achieve the commission's
- 27 purpose.

28 **(b) The commission shall contract for the operation of all full**
 29 **service license branches under 9-16-1-4.**

30 SECTION 6. IC 9-15-4-1 IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 1999]: Sec. 1. IC 34-13-3 applies to a claim or
 32 suit in tort against ~~any of the following:~~

- 33 ~~(1)~~ a member of the commission.
- 34 ~~(2) An employee of the commission who is employed at a license~~
- 35 ~~branch under IC 9-16, except for an employee employed at a~~
- 36 ~~license branch operated under a contract with the commission~~
- 37 ~~under IC 9-16-1-4.~~

38 SECTION 7. IC 9-16-1-1 IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter,
 40 "qualified person" means any of the following:

- 41 (1) A motor club that is any of the following:
- 42 (A) A domestic corporation.

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- 1 (B) A foreign corporation qualified to transact business in
 2 Indiana under IC 23-1 or IC 23-17.
- 3 (2) A financial institution (as defined in IC 28-1-1-3).
 4 (3) A new motor vehicle dealer licensed under IC 9-23-2.
- 5 **(4) A person that holds a registered retail merchant's**
 6 **certificate under IC 6-2.5-8-1.**
- 7 ~~(4)~~ (5) Other persons, including persons licensed under IC 9-23-2
 8 that are not covered by subdivision (3), that the commission
 9 determines can meet the standards adopted by the commission
 10 under IC 9-15-2-1(7) and the requirements for partial service
 11 contractors under section 4.5 of this chapter.
- 12 SECTION 8. IC 9-16-1-2 IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 1999]: Sec. 2. The commission shall ~~operate or~~
 14 ~~be responsible for the administration of~~ **contract for the operation of**
 15 all license branches in Indiana under this article.
- 16 SECTION 9. IC 9-16-1-4 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The commission ~~may~~ **shall**
 18 contract with a qualified person (**as defined in IC 9-16-1-1**) for:
 19 (1) the operation of a full service license branch under this
 20 section; or
 21 (2) ~~providing the provision of~~ partial services under section 4.5
 22 of this chapter.
- 23 (b) A contract for the operation of a full service license branch must
 24 include the following provisions:
 25 (1) The contractor shall provide a full service license branch,
 26 including the following services:
 27 (A) Vehicle titles.
 28 (B) Vehicle registration.
 29 (C) Driver's licenses.
 30 (D) Voter registration as provided in IC 3-7.
- 31 (2) The contractor shall provide trained personnel to properly
 32 process branch transactions.
- 33 (3) The contractor shall do the following:
 34 (A) Collect and transmit all bureau fees and taxes collected at
 35 the license branch.
 36 (B) Deposit the taxes collected at the license branch with the
 37 county treasurer in the manner prescribed by IC 6-3.5 or
 38 IC 6-6-5.
- 39 ~~(4) The contractor shall generate a transaction volume sufficient~~
 40 ~~to justify the installation of bureau support systems.~~
 41 ~~(5)~~ (4) The contractor shall provide fidelity bond coverage in an
 42 amount prescribed by the commission.

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- 1 ~~(5)~~ (5) The contractor may operate the license branch within a
- 2 facility used for other purposes.
- 3 ~~(6)~~ (6) The contractor shall pay the cost of any post audits
- 4 conducted by the commission or the state board of accounts on an
- 5 actual cost basis.
- 6 ~~(7)~~ (7) The commission shall provide support systems and driver's
- 7 license examiners. on the same basis as state operated branches.
- 8 ~~(8)~~ (8) The commission shall provide the same equipment to
- 9 contractors as is provided to state operated branches.
- 10 ~~(9)~~ (9) The commission must approve each location and physical
- 11 facility based upon criteria developed by the commission.
- 12 ~~(10)~~ (10) The term of the contract must be for a fixed period.
- 13 ~~(11)~~ (11) (8) The term of the contract must be for a fixed period.
- 14 ~~(12)~~ (12) (9) The contractor shall agree to provide voter registration
- 15 services and to perform the same duties imposed on the
- 16 commission under IC 3-7.
- 17 SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE
- JULY 1, 1999]: IC 9-13-2-138; IC 9-16-2; IC 9-16-3; IC 9-16-4.

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