

HOUSE BILL No. 1647

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3-1; IC 4-2-1; IC 4-2.5; IC 4-3-3-1.1; IC 33-3-5-7; IC 33-5-37.7-5; IC 33-10.5-5-2; IC 33-13-12.

Synopsis: Public officers compensation commission. Establishes the public officers salary commission consisting of nine members. Authorizes the commission to adopt administrative rules to govern the proceedings of the commission and to set the salaries of: (1) members of the general assembly; (2) the governor and other elected public officers in the executive branch of state government; and (3) the justices of the Indiana supreme court, the judges of the Indiana court of appeals, the judge of the Indiana tax court, and the judges of the circuit, superior, and county courts of Indiana. Provides that the general assembly retains authority to establish salaries by statute and to void a salary rule of the commission. Provides for the salary of public officers
(Continued next page)

Effective: July 1, 1999; January 1, 2000.

Cochran, Bauer

January 21, 1999, read first time and referred to Committee on Ways and Means.

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Digest Continued

if the general assembly voids a salary rule of the commission or repeals a statute setting the salary of a public officer. Removes current salaries of public officers in the judicial branch from statute. Repeals current statutes setting the salaries of members of the general assembly and public officers in the executive branch. Makes certain other changes.

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Introduced

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.

HOUSE BILL No. 1647

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

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

- 1 SECTION 1. IC 4-2.5 IS ADDED TO THE INDIANA CODE AS A
2 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1999]:
4 **ARTICLE 2.5. SALARIES OF PUBLIC OFFICERS**
5 **Chapter 1. Definitions**
6 **Sec. 1. The definitions in this chapter apply throughout this**
7 **article.**
8 **Sec. 2. "Commission" refers to the public officers salary**
9 **commission established by IC 4-2.5-2-1.**
10 **Sec. 3. "Political subdivision" has the meaning set forth in**
11 **IC 36-1-2-13.**
12 **Sec. 4. "Public employee" refers to any of the following:**
13 (1) **An employee of the state.**
14 (2) **An employee of a political subdivision.**
15 (3) **An employee of any other entity whose salary is paid in**



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1 any part from funds derived from taxes imposed by the state
2 or a political subdivision.

3 **Sec. 5. "Public officer" refers to any of the following:**

- 4 (1) A member of the general assembly.
5 (2) The governor.
6 (3) The lieutenant governor.
7 (4) The secretary of state.
8 (5) The auditor of state.
9 (6) The treasurer of state.
10 (7) The attorney general.
11 (8) The clerk of the supreme court.
12 (9) The superintendent of public instruction.
13 (10) A justice of the supreme court of Indiana.
14 (11) A judge of the court of appeals of Indiana.
15 (12) A judge of the Indiana tax court.
16 (13) A judge of a circuit, superior, or county court.

17 **Chapter 2. Public Officers Salary Commission**

18 **Sec. 1. The public officers salary commission is established.**

19 **Sec. 2. (a) The commission consists of the following members:**

- 20 (1) One (1) member appointed by the governor upon the
21 recommendation of the speaker of the house of
22 representatives.
23 (2) One (1) member appointed by the governor upon the
24 recommendation of the minority leader of the house of
25 representatives.
26 (3) One (1) member appointed by the governor upon the
27 recommendation of the president pro tempore of the senate.
28 (4) One (1) member appointed by the governor upon the
29 recommendation of the minority leader of the senate.
30 (5) One (1) member appointed by the governor upon the
31 recommendation of the chief justice of the supreme court of
32 Indiana.
33 (6) One (1) member appointed by the governor upon the
34 recommendation of the chief judge of the court of appeals of
35 Indiana.
36 (7) Three (3) members appointed by the governor. Not more
37 than two (2) members appointed under this subdivision may
38 be affiliated with the same political party. At least one (1)
39 member appointed under this subdivision must be regularly
40 engaged in the field of business finance or business
41 management. At least one (1) member appointed under this
42 subdivision must be experienced in the field of labor and



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1 management relations.

2 (b) The governor may reject a recommendation for appointment
3 to the commission made under subsection (a)(1) through (a)(6). If
4 the governor rejects a recommendation for appointment, the public
5 officer required to make a recommendation shall make a new
6 recommendation to the governor under subsection (a).

7 (c) A public officer or a public employee may not be a
8 commission member.

9 Sec. 3. (a) The term of a commission member begins on the later
10 of the following:

11 (1) July 1 after the governor appoints the member.

12 (2) The day the member accepts the member's appointment.

13 (b) The term of a commission member expires on July 1 of the
14 fourth year after the year the member's term begins.

15 (c) The governor may reappoint a member to serve a new term.

16 Sec. 4. (a) If there is a vacancy on the commission, the public
17 officer who made the recommendation for appointment of the
18 member whose position is vacant shall recommend to the governor
19 the name of an individual to fill the vacancy as provided in section
20 2 of this chapter.

21 (b) The member appointed under this section shall fill the
22 vacancy for the remainder of the unexpired term.

23 Sec. 5. (a) At the commission's last meeting before July 1 of each
24 year, the commission shall elect one (1) member to be chair of the
25 commission.

26 (b) The member who is elected chair of the commission serves
27 as chair beginning July 1 after elected by the commission.

28 Sec. 6. Five (5) commission members constitute a quorum. The
29 affirmative vote of at least five (5) commission members is
30 necessary for the commission to take official action other than to
31 adjourn or to meet to hear reports or testimony.

32 Sec. 7. The commission shall meet at least two (2) times each
33 year at the call of the chair.

34 Sec. 8. Each member of the commission is entitled to the
35 following:

36 (1) The salary per diem provided under IC 4-10-11-2.1(b).

37 (2) Reimbursement for traveling expenses as provided under
38 IC 4-13-1-4.

39 (3) Other expenses actually incurred in connection with the
40 member's duties as provided in the state policies and
41 procedures established by the Indiana department of
42 administration and approved by the budget agency.



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1 **Sec. 9.** The state personnel department shall provide
 2 administrative support for the commission. At the request of the
 3 state personnel department, the legislative services agency or the
 4 chief justice of the supreme court of Indiana shall assign staff to
 5 provide research and other support to assist the state personnel
 6 department in providing administrative support to the commission.

7 **Sec. 10.** The commission may adopt rules under IC 4-22-2 to do
 8 the following:

- 9 (1) Fix salaries of public officers.
 10 (2) Govern commission proceedings.

11 **Sec. 11.** There is appropriated to the state personnel department
 12 from the state general fund money necessary for the operation of
 13 the commission.

14 **Chapter 3. Adoption of Rules to Set Salaries of Public Officers**

15 **Sec. 1.** The commission shall meet at least one (1) time each
 16 year, after June 30 and before October 1, to do the following:

- 17 (1) Receive information relating to the salaries of public
 18 officers.
 19 (2) Consider recommendations for suitable salaries for public
 20 officers.
 21 (3) Take testimony relating to the salaries of public officers.
 22 (4) Adopt, if necessary, proposed rules to set the salaries of
 23 any public officers.

24 **Sec. 2.** (a) The commission shall meet at least one (1) time each
 25 year after October 1 and before November 1 to adopt any final
 26 rules based on proposed rules adopted under section 1 of this
 27 chapter.

28 (b) The commission is not required to adopt or amend a rule to
 29 change the salary of a public officer if the commission considers
 30 the current salary suitable.

31 (c) If the commission does not adopt a rule relating to the salary
 32 of a public officer, the salary of the public officer is the salary
 33 provided by law.

34 **Sec. 3.** A final rule adopted under section 2 of this chapter must
 35 be published in the December edition of the Indiana Register.

36 **Sec. 4.** (a) When determining a suitable salary for a public
 37 officer, the commission may consider the following:

- 38 (1) The responsibilities of the office.
 39 (2) The educational background required or desired for an
 40 individual who holds the office.
 41 (3) The skills required or desired for the office.
 42 (4) The experience required or desired for the office.



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- 1 (5) The time required or desired to be spent to fulfill the
 2 duties of the office.
 3 (6) The opportunity or lack of opportunity that an individual
 4 who holds the office has to earn other income.
 5 (7) The salaries paid to government officers in other states
 6 that have comparable duties and authority.
 7 (8) Salaries paid to comparable professionals in the private
 8 sector in Indiana and other comparable states based on the
 9 responsibility and discretion required from or desired in an
 10 individual who holds the office.
 11 (9) The increase in the cost of living in Indiana since the most
 12 recent increase in the salary of the public officer.
 13 (10) Benefits other than salaries provided to public officers as
 14 compared with comparable public officers in other states.
 15 (11) Ability to attract and retain qualified individuals to be
 16 public officers.
 17 (12) The interests and welfare of the public.
 18 (13) The financial ability of the state to meet the costs of
 19 salaries recommended by the commission.
 20 (14) Other factors the commission considers relevant.
 21 (b) The commission may give the weight to the factors described
 22 in subsection (a) that the commission considers appropriate.
 23 **Sec. 5. A rule adopted by the commission to set the salaries of a**
 24 **public officer takes effect as follows:**
 25 (1) If the rule relates to the salary of the governor, the final
 26 rule:
 27 (A) must be published not later than December 1 of the
 28 year before a general election for governor; and
 29 (B) takes effect on the second Monday in January after an
 30 election for governor if the general assembly has not
 31 voided the rule.
 32 (2) If the rule relates to the salary of members of the general
 33 assembly, the final rule:
 34 (A) must be published not later than December 1 of the
 35 year before a general election for members of the general
 36 assembly; and
 37 (B) takes effect January 1 after a general election for
 38 members of the general assembly if the general assembly
 39 has not voided the rule.
 40 (3) If the rule relates to the salary of a public officer other
 41 than the governor or a member of the general assembly, the
 42 final rule:



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1 (A) may be published on December 1 of any year; and
2 (B) takes effect on the following July 1 if the general
3 assembly has not voided the rule.

4 Sec. 6. A rule relating to the salary of a public officer described
5 in Article 7, Section 19 of the Constitution of the State of Indiana
6 may not diminish the compensation of the public officer below its
7 current level.

8 Sec. 7. This article does not affect the authority of the general
9 assembly to do the following:

- 10 (1) Set salaries of public officers by statute.
- 11 (2) Subject to section 6 of this chapter, void a rule of the
12 commission by statute before or after the rule takes effect.

13 Sec. 8. (a) If the general assembly voids a rule of the commission
14 or repeals a statute that sets the salary of a public officer, the
15 salary of the public officer is the salary of the public officer set in
16 the most recent rule or statute in effect.

17 (b) If the general assembly voids a rule of the commission or
18 repeals a statute that sets the salary of a public officer, the
19 commission shall adopt a rule that states the salary of the public
20 officer set in the most recent rule or statute in effect.

21 SECTION 2. IC 4-3-3-1.1 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1.1. (a) An
23 individual who holds the office of governor for any length of time
24 during one (1) term of that office is entitled to receive an annual
25 retirement benefit under subsection (e). Provided, however, an
26 individual who succeeds to the office of governor without being elected
27 is not entitled to an annual retirement benefit under this section unless
28 such person serves for more than one (1) year of the term of the office.

29 (b) An individual who holds the office of governor for any length of
30 time during each of two (2) separate terms of that office is entitled to
31 receive an annual retirement benefit under subsection (f).

32 (c) If an individual who holds the office of governor resigns or is
33 removed from office, during a term of that office, for any reason except
34 a mental or physical disability that renders him unable to discharge the
35 powers and duties of the office, then the term during which he resigned
36 or was removed may not be considered for determining his annual
37 retirement benefit under this section.

38 (d) The retirement benefit shall be paid in equal monthly
39 installments by the treasurer of state on warrant of the auditor of state
40 after a claim has been made for the retirement benefit to the auditor by
41 the governor or a person acting on his behalf. A governor shall choose
42 the date on which he will begin receiving his retirement benefit;

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1 however, the date must be the first state employee payday of a month.
 2 A governor may not receive the retirement benefit as long as he holds
 3 an elective position with any federal, state, or local governmental unit,
 4 and he may not receive the retirement benefit until he has reached at
 5 least age sixty-two (62) years. The governor's choice of initial benefit
 6 payment date and the governor's choice of benefit payment amount
 7 under subsections (e) and (f) are revocable until the governor receives
 8 the first monthly installment of his retirement benefit; after that
 9 installment is received, the choice of date and the choice of amount are
 10 irrevocable.

11 (e) With respect to a governor who is entitled to a retirement benefit
 12 under subsection (a):

13 (1) if he chooses to begin receiving his retirement benefit on or
 14 after the date he reaches age sixty-two (62) years but before he
 15 reaches age sixty-five (65) years, he may choose to receive:

16 (A) the retirement benefits he is entitled to, if any, from the
 17 public employees' retirement fund; or

18 (B) thirty percent (30%) of the governor's annual salary set in
 19 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life; or

20 (2) if he chooses to begin receiving his retirement benefit on or
 21 after the date he reaches age sixty-five (65) years, he may choose
 22 to receive:

23 (A) the retirement benefits he is entitled to, if any, from the
 24 public employees' retirement fund; or

25 (B) forty percent (40%) of the governor's annual salary set in
 26 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life.

27 (f) With respect to a governor who is entitled to a retirement benefit
 28 under subsection (b):

29 (1) if he chooses to begin receiving his retirement benefit on or
 30 after the date he reaches age sixty-two (62) years but before he
 31 reaches age sixty-five (65) years, he may choose to receive:

32 (A) the retirement benefits he is entitled to, if any, from the
 33 public employees' retirement fund;

34 (B) forty percent (40%) of the governor's annual salary set in
 35 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life; or

36 (2) if he chooses to begin receiving his retirement benefit on or
 37 after the date he reaches age sixty-five (65) years, he may choose
 38 to receive:

39 (A) the retirement benefits he is entitled to, if any, from the
 40 public employees' retirement fund; or

41 (B) fifty percent (50%) of the governor's annual salary set in
 42 ~~IC 4-2-1-1~~ **under IC 4-2.5** for the remainder of his life.



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1 SECTION 3. IC 33-3-5-7 IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JANUARY 1, 2000]: Sec. 7. (a) The judge of the tax
 3 court is entitled to an annual salary equal to the annual salary provided
 4 ~~in IC 33-13-12-9~~ **under IC 4-2.5** to a judge of the court of appeals. In
 5 addition, the judge of the tax court is entitled to the following:

6 (1) Reimbursement for traveling expenses and other expenses
 7 actually incurred in connection with the judge's duties, as
 8 provided in the state travel policies and procedures established by
 9 the department of administration and approved by the budget
 10 agency.

11 (2) A subsistence allowance equal to the amount provided under
 12 IC 33-13-12-9 to a judge of the court of appeals who is not the
 13 chief judge of the court of appeals.

14 (b) The judge of the tax court:

15 (1) shall devote full time to judicial duties; and

16 (2) may not engage in the practice of law.

17 (c) The state shall pay the annual salary prescribed in subsection (a)
 18 from the state general fund.

19 (d) The state shall furnish an automobile to the judge of the state tax
 20 court.

21 SECTION 4. IC 33-5-37.7-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. The judge of
 23 the court is entitled to the salary ~~set out in IC 33-13-12:~~ **set under**
 24 **IC 4-2.5**. The salary shall be paid in the same manner as the salary of
 25 a circuit court judge, and the portion of the salary to be paid by the
 26 counties shall be paid by Ohio and Switzerland counties in equal
 27 portions.

28 SECTION 5. IC 33-10.5-5-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) The salary
 30 of a county court judge who serves more than one (1) county shall be
 31 paid by the respective counties in equal amounts.

32 (b) The salary of every county court judge, as set ~~by IC 33-13-12;~~
 33 **under IC 4-2.5**, shall be paid in equal monthly installments.

34 SECTION 6. IC 33-13-12-7.1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7.1. (a) The total
 36 annual salary of each full-time judge of a circuit, superior, municipal,
 37 county, or probate court is ~~ninety thousand dollars (\$90,000)~~ **the salary**
 38 **set under IC 4-2.5** and any additional salary provided under
 39 IC 36-2-5-14 or IC 36-3-6-3(c). The state shall pay all of the total
 40 salary except for the additional salary, if any, under IC 36-2-5-14 or
 41 IC 36-3-6-3(c). The state shall deposit quarterly the money received
 42 from the counties under subsection (c) in the state general fund.



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1 (b) Before November 2 of each year, the county auditor of each
 2 county shall certify to the division of state court administration the
 3 amounts, if any, to be provided by the county during the ensuing
 4 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

5 (c) When making each payment under subsection (a), the county
 6 shall determine for each judge whether the total of:

- 7 (1) the payment made on behalf of that judge;
 8 (2) previous payments made on behalf of that judge in the same
 9 calendar year; and
 10 (3) the state share of the judge's salary under subsection (a);

11 exceeds the Social Security wage base established by the federal
 12 government for that year. If the total does not exceed the Social
 13 Security wage base, the payment on behalf of that judge must also be
 14 accompanied by an amount equal to the employer's share of Social
 15 Security taxes and Medicare taxes. If the total does exceed the Social
 16 Security wage base, the part of the payment on behalf of the judge that
 17 is below the Social Security wage base must be accompanied by an
 18 amount equal to the employer's share of Social Security taxes and
 19 Medicare taxes, and the part of the payment on behalf of the judge that
 20 exceeds the Social Security wage base must be accompanied by an
 21 amount equal to the employer's share of Medicare taxes. Payments
 22 made under this subsection shall be deposited in the state general fund
 23 under subsection (a).

24 (d) For purposes of determining the amount of life insurance
 25 premiums to be paid by a judge who participates in a life insurance
 26 program that:

- 27 (1) is established by the state;
 28 (2) applies to a judge who is covered by this section; and
 29 (3) bases the amount of premiums to be paid by the judge on the
 30 amount of the judge's salary;

31 the judge's salary does not include any amounts paid to the state by a
 32 county under subsection (a).

33 SECTION 7. IC 33-13-12-9 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. (a) ~~The total~~
 35 ~~annual salary for each justice of the supreme court of Indiana is one~~
 36 ~~hundred fifteen thousand dollars (\$115,000):~~

37 ~~(b) The total annual salary for each judge of the court of appeals of~~
 38 ~~Indiana is one hundred ten thousand dollars (\$110,000):~~

39 ~~(c) The state shall pay the annual salaries prescribed in subsections~~
 40 ~~(a) through (b) from the state general fund.~~

41 ~~(d) In addition to said the salary of a justice of the supreme court~~
 42 ~~of Indiana or a judge of the court of appeals of Indiana set under~~



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1 **IC 4-2.5**, there shall be paid in equal monthly payments on the first day
 2 of each month out of any money in the general fund of the state
 3 treasury not otherwise appropriated, the following annual subsistence
 4 allowances to assist in defraying expenses relating to or resulting from
 5 the discharge of the justice's or judge's official duties, for which no
 6 accounting shall be made by such judge:

7 (1) Five thousand five hundred dollars (\$5,500) to the chief
 8 justice of the supreme court.

9 (2) Five thousand five hundred dollars (\$5,500) to the chief judge
 10 of the court of appeals.

11 (3) Three thousand dollars (\$3,000) to each justice of the supreme
 12 court who is not the chief justice.

13 (4) Three thousand dollars (\$3,000) to each judge of the court of
 14 appeals who is not the chief judge.

15 ~~(c)~~ **(b)** The state shall not furnish automobiles for the use of justices
 16 or judges compensated under ~~this section~~ **IC 4-2.5**.

17 **SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE**
 18 **JANUARY 1, 2000]: IC 2-3-1; IC 4-2-1.**

19 **SECTION 9. [EFFECTIVE JULY 1, 1999] (a) As used in this**
 20 **SECTION, "commission" refers to the public officers salary**
 21 **commission established by IC 4-2.5-2-1, as added by this act.**

22 **(b) Notwithstanding IC 4-2.5-2-3, as added by this act, the term**
 23 **of a commission member expires as follows:**

24 (1) **The term of a member recommended for appointment by**
 25 **the speaker of the house of representatives under**
 26 **IC 4-2.5-2-2(1), as added by this act, expires July 1, 2003.**

27 (2) **The term of a member recommended for appointment by**
 28 **the president pro tempore of the senate under IC 4-2.5-2-2(3),**
 29 **as added by this act, expires July 1, 2003.**

30 (3) **The term of a member recommended for appointment by**
 31 **the minority leader of the house of representatives under**
 32 **IC 4-2.5-2-2(2), as added by this act, expires July 1, 2002.**

33 (4) **The term of a member recommended for appointment by**
 34 **the minority leader of the senate under IC 4-2.5-2-2(4), as**
 35 **added by this act, expires July 1, 2002.**

36 (5) **The term of a member recommended for appointment by**
 37 **the chief justice of the supreme court of Indiana under**
 38 **IC 4-2.5-2-2(5), as added by this act, expires July 1, 2001.**

39 (6) **The term of a member recommended for appointment by**
 40 **the chief judge of the Indiana court of appeals under**
 41 **IC 4-2.5-2-2(6), as added by this act, expires July 1, 2001.**

42 (7) **The term of a member appointed by the governor under**



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IC 4-2.5-2-2(a)(7), as added by this act, expires as follows:

(A) The terms of two (2) members expire July 1, 2003.

(B) The term of one (1) member expires July 1, 2002.

When making an appointment under this subdivision, the governor shall state, subject to this subdivision, the date when the term of the member expires.

(c) This SECTION expires July 1, 2003.

SECTION 10. [EFFECTIVE JULY 1, 1999] (a) As used in this SECTION, "commission" refers to the public officers salary commission established by IC 4-2.5-2-1, as added by this act.

(b) As used in this SECTION, "public officer" has the meaning set forth in IC 4-2.5-1-5, as added by this act.

(c) Notwithstanding IC 4-2.5-3, as added by this act, the commission shall adopt, before November 1, 1999, interim written guidelines to set the salaries of all public officers.

(d) If the commission determines that the salary for a public officer in effect on June 30, 1999, is suitable, the commission shall adopt an interim written guideline that sets the salary for that public officer at the amount in effect on June 30, 1999.

(e) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 4-2.5-3, as added by this act.

(2) July 1, 2000.

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