

# HOUSE BILL No. 1828

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-15-2-18; IC 4-15-2-32; IC 4-15-9-2.

**Synopsis:** State employee labor matters. Eliminates retention points as criteria for layoff and rehiring for state merit and nonmerit employees. Requires the state to compute military preference and length of service for determination of reduction in force for state employees. Eliminates the requirement that retention points be computed to determine the order of layoff within each county and the provision that each county is considered to be an autonomous unit for layoff procedures. Allows a state employee who is subject to layoff to displace another state employee in the same or lower class for any location within the state, if the employee has a higher seniority position than the employee being displaced. Allows a state employee who has been laid off to have reemployment rights in any location within the state.

**Effective:** Upon passage; July 1, 1999.

---

---

**Adams T**

---

---

January 26, 1999, read first time and referred to Committee on Labor and Employment.

---

---

C  
O  
P  
Y



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.

C  
O  
P  
Y

## HOUSE BILL No. 1828



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

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

1 SECTION 1. IC 4-15-2-18 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) The rating of  
3 each test shall be completed and the resulting list established not later  
4 than thirty (30) days after the date on which the test was held, unless  
5 such time is extended by the director for reasons which the director  
6 shall record in the official records of the department. The final earned  
7 rating of each person competing in any test shall be determined by the  
8 weighted average of the earned ratings of the test, according to weights  
9 for each phase established by the director in advance of the giving of  
10 the test. The names of all persons attaining the minimum final earned  
11 ratings established by the director in advance of the giving of the tests  
12 shall be placed upon the eligible list in order of their ratings. The  
13 names of persons who have indicated in writing that they are unwilling  
14 to accept appointment may be dropped from the list. All persons  
15 competing in any test shall be given written notice of their final earned  
16 ratings. Statements of former employers of the applicants shall be  
17 confidential. A manifest error in rating a test shall be corrected if called



1 to the attention of the director, but such correction shall not invalidate  
2 any appointment previously made from such a list.

3 (b) In certification for appointment, in appointment, in  
4 reinstatement, and in reemployment in any state service, preference  
5 shall be given to former members of the military services of the United  
6 States who served on active duty in any branch of the armed forces and  
7 who at no time received a discharge or separation under other than  
8 honorable conditions, except corrected separation or discharge to read  
9 "honorable" as evidenced by appropriate records presented from the  
10 United States Department of Defense or appropriate branch of the  
11 military service.

12 (c) Preference shall be given in the following priorities:

13 (1) Former members of the military service who have established  
14 the present existence of a service connected disability of ten  
15 percent (10%) or more, as evidenced by records of the United  
16 States Department of Veterans Affairs or disability retirement  
17 benefits as evidenced by laws administered by the United States  
18 Department of Defense.

19 (2) The spouse of such service connected disabled veterans and  
20 the unremarried spouse of deceased veterans.

21 (3) Those former members of the military service who are  
22 wartime veterans.

23 (4) Veterans of the military service who served more than one  
24 hundred eighty-one (181) days on active duty, regardless of when  
25 served.

26 (d) In all written examinations to determine the qualifications of  
27 applicants for entrance into state service:

28 (1) ten (10) points shall be added to the earned rating of persons  
29 taking competitive examination under subsection (c)(1) or (c)(2);

30 (2) five (5) points shall be added to the earned ratings of persons  
31 taking competitive examination under subsection (c)(3); and

32 (3) two (2) points shall be added to the earned rating of persons  
33 taking competitive examination under subsection (c)(4).

34 (e) All points specified in subsection (d) shall be added to the total  
35 combined test scores of the person and shall not be allocated to any  
36 single feature or part of the competitive examination. Rating shall be  
37 based on a scale of one hundred (100) points as the maximum  
38 attainable.

39 (f) When veterans preference in state service employment is limited  
40 to wartime veterans, this subsection applies for the purpose of defining  
41 "war":

42 (1) World War II - December 7, 1941, to December 31, 1946.



C  
O  
P  
Y

- 1 (2) Korean Conflict - June 27, 1950, to January 31, 1955.  
 2 (3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.  
 3 (4) Actual combat or duty equally hazardous, regardless of time,  
 4 or service in any foreign war, insurrection, or expedition, which  
 5 service is recognized by the award of a service or campaign medal  
 6 of the United States.  
 7 (5) Participation as a regularly assigned crew member of any  
 8 military craft in a mission in support of a military operation,  
 9 regardless of time, as designated by the armed forces of the  
 10 United States.
- 11 (g) Active duty consists of:  
 12 (1) ninety (90) days or more wartime service;  
 13 (2) ninety (90) days or more consecutive service which began or  
 14 ended during wartime period;  
 15 (3) ninety (90) days or more combined service in two (2) or more  
 16 wartime periods;  
 17 (4) service of less than ninety (90) days, if discharged for a  
 18 disability in line of duty; or  
 19 (5) service qualifying under subsection (f)(4) or (f)(5), which  
 20 must be documented by appropriate records of the United States  
 21 Department of Defense.
- 22 (h) In examinations where experience is an element of qualification,  
 23 time spent in the armed forces of the United States shall be credited in  
 24 a veteran's rating where the veteran's actual employment in a similar  
 25 vocation to that for which the veteran is examined was interrupted by  
 26 such service. In all examinations to determine the qualifications of a  
 27 veteran applicant, credit shall be given for all valuable experience,  
 28 including experience gained in religious, civic, welfare, service, and  
 29 organizational activities, regardless of whether any compensation was  
 30 received for the experience.
- 31 (i) In determining qualifications for examination, appointment,  
 32 promotion, retention, transfer, or reinstatement, with respect to  
 33 preference eligibles, the department shall waive requirements as to age,  
 34 height, and weight, if the requirement is not essential to the  
 35 performance of the duties of the position for which examination is  
 36 given. The department, after giving due consideration to the  
 37 recommendation of any accredited physician, shall waive the physical  
 38 requirements in the case of any veteran, if the veteran is, in the opinion  
 39 of the director, physically able to discharge efficiently the duties of the  
 40 position for which the examination is given. No minimum educational  
 41 requirement may be prescribed in any civil service examination except  
 42 for such scientific, technical, or professional positions, the duties of

C  
O  
P  
Y

1 which the department decides cannot be performed by a person who  
 2 does not have such education. The director shall make a part of the  
 3 department's public records the director's reasons for such decision.

4 (j) The names of preference eligibles shall be entered on the  
 5 appropriate registers or lists of eligibles in accordance with their  
 6 respective augmented ratings. The name of a preference eligible shall  
 7 be entered ahead of all others having the same rating.

8 (k) The director shall adopt appropriate rules under IC 4-22-2 for  
 9 the administration and enforcement of this section.

10 (l) In any reduction in personnel in any state service, competing  
 11 employees shall be released in accordance with board regulations  
 12 which shall ~~give due effect to tenure of employment, compute~~ military  
 13 preference ~~and~~ length of ~~employment~~ service. ~~and efficiency ratings.~~  
 14 The length of time spent in active service in the armed forces of the  
 15 United States of each such employee shall be credited in computing  
 16 length of total service. ~~Veteran's preference points shall be added to the~~  
 17 ~~retention score of a preference eligible.~~ When any of the functions of  
 18 any state agency are transferred to, or when any state agency is  
 19 replaced by, some other state agency or agencies, all preference  
 20 employees in the function or functions transferred or in the agency  
 21 replaced shall first be transferred to the replacing agency or agencies  
 22 for employment in positions for which they are qualified, before the  
 23 agency or agencies appoint additional employees from any other  
 24 sources for such positions.

25 (m) Any preference eligible who has resigned may, at the request of  
 26 any appointing officer, be certified for and appointed to any position  
 27 for which the preference eligible has been a regular employee in the  
 28 state service.

29 (n) Any preference eligible who has been furloughed or separated  
 30 without delinquency or misconduct, upon request, shall have the  
 31 preference eligible's name placed on all appropriate registers and  
 32 employment lists, for every position for which the preference eligible's  
 33 qualifications have been established.

34 (o) Applicants claiming preference of their own service must submit  
 35 either:

- 36 (1) original discharge or separation or certified copies or photostat  
 37 copies of the originals;
- 38 (2) an official statement from the United States Department of  
 39 Defense showing record of service; or
- 40 (3) an official statement from the United States Department of  
 41 Veterans Affairs supporting the claim for disability.

42 SECTION 2. IC 4-15-2-32 IS AMENDED TO READ AS

C  
O  
P  
Y



1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) An appointing  
 2 authority may lay off employees in the classified service whenever it  
 3 is deemed necessary, due to shortage of work or funds, or the  
 4 abolishment of a position, or other material change in duties or  
 5 organization. ~~For purposes of this section, offices and positions of~~  
 6 ~~employment in each county where the division of service operates is~~  
 7 ~~considered one autonomous unit and layoff procedures will apply~~  
 8 ~~within the county affected by the layoff.~~ When a layoff is necessary, the  
 9 appointing authority will determine in which class or classes the layoff  
 10 or layoffs will occur, the number of employees to be laid off within  
 11 each affected class, the county or counties where layoffs are to occur  
 12 and give written notice to the director a reasonable time before the  
 13 effective date of the layoff. The director, in accordance with the rules,  
 14 shall compute ~~retention points to determine the order of layoff within~~  
 15 ~~each county length of service records of the employees within the~~  
 16 **affected class who are to be laid off.** The **retention points length of**  
 17 **service** will be computed as of the effective date of the layoff and will  
 18 reflect systematic consideration of seniority ~~service ratings and~~  
 19 ~~veterans' preference status. and employment status.~~ The director shall  
 20 provide the appointing authority with a written notice containing the  
 21 names and ~~retention points seniority positions~~ of employees to be laid  
 22 off ~~in each county~~, and such orders relating to the layoff as deemed  
 23 necessary to secure compliance with this section.

24 (b) Any employee in the classified service who has been notified of  
 25 pending layoff and who has permanent status in a lower class has the  
 26 right, provided ~~they have more retention points; the employee has a~~  
 27 **higher seniority position** to displace ~~within the same affected county;~~  
 28 ~~the any~~ employee with the ~~least retention points lowest seniority~~  
 29 **position** in that lower class. Any employee in the classified service  
 30 who has permanent status in a lower class and is displaced by another  
 31 employee has the right, provided ~~they have more retention points; the~~  
 32 **employee has a higher seniority position** to displace ~~within the same~~  
 33 ~~affected county~~ the employee with the ~~least retention points lowest~~  
 34 **seniority position** in that lower class. **An employee in the classified**  
 35 **service may displace another employee in the same or lower class**  
 36 **in any location within the state, provided the employee has a higher**  
 37 **seniority position than the employee being displaced.** This procedure  
 38 shall continue until the employee with the ~~least retention points lowest~~  
 39 **seniority position** in the lowest class ~~in the same affected county;~~ of  
 40 the same appointing authority has been reached, and if necessary, laid  
 41 off. ~~Should a layoff result in the closing of all offices in a county; any~~  
 42 ~~employee in the classified service who has been notified of pending~~



C  
O  
P  
Y

1     layoff and who has permanent status in the class from which they are  
 2     laid off may, provided they have more retention points, displace within  
 3     the division of service in any contiguous county the employee with the  
 4     least retention points in that class.

5     (c) Employees who have been reduced or laid off will be placed on  
 6     appropriate ~~re-employment~~ **reemployment** lists in accordance with  
 7     rules established by the director. Those employees with the highest  
 8     **retention points seniority position** in each affected class will be placed  
 9     at the top of the list followed by employees ranked in descending order.  
 10    An employee who is laid off will retain ~~re-employment~~ **reemployment**  
 11    rights for a period of one (1) year from the layoff date. During this one  
 12    (1) year period, the appointing authority, for the division of service  
 13    affected, shall not hire nor promote anyone into a class affected by the  
 14    layoff until all laid off employees on the ~~re-employment~~  
 15    **reemployment** list for that class have been reinstated or decline the  
 16    position when it is offered. Employees who fail to respond within five  
 17    (5) days, to a written offer sent to their last known address, will be  
 18    deemed to have declined. ~~Even though a layoff applies only to affected~~  
 19    ~~counties, re-employment~~ **Reemployment** rights extend to ~~all counties~~  
 20    **any location within the state**, and at the request of the laid off or  
 21    reduced employee, ~~their~~ **the employee's** name will be placed on the  
 22    appropriate ~~re-employment~~ **reemployment** list for ~~any~~ or all counties.

23    SECTION 3. IC 4-15-9-2 IS AMENDED TO READ AS FOLLOWS  
 24    [EFFECTIVE JULY 1, 1999]: Sec. 2. If a state employee's employment  
 25    with a state agency is terminated because of governmental  
 26    reorganization, the state agency or the personnel department shall assist  
 27    him in locating employment with another state agency. When a same  
 28    or similar position for which the terminated state employee is qualified  
 29    becomes available with a state agency, he shall be given priority  
 30    consideration in filling the position. However, if the position is a merit  
 31    position, merit requirements **with reference to seniority position** must  
 32    be met.

33    SECTION 4. [EFFECTIVE UPON PASSAGE] (a) **Before**  
 34    **December 31, 1999, the commission shall amend 31 IAC 1-13-1,**  
 35    **31 IAC 2-12-5, and 31 IAC 2-12-6 to require consideration of an**  
 36    **eligible former employee, for the same or similar vacant positions,**  
 37    **to be based on the employee's seniority position.**

38    (b) **This SECTION expires January 2, 2001.**

39    SECTION 5. **An emergency is declared for this act.**



C  
O  
P  
Y