
SENATE BILL No. 248

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-8; 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; IC 2-3-1; IC 4-2-1-1.

Synopsis: Public officers compensation commission. Establishes the public officers compensation commission consisting of nine members. Allows the commission to adopt 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; and (3) the justices of the supreme court of Indiana and the judges of the Indiana court of appeals, the Indiana tax court, and the circuit, superior, and county courts. Permits the general assembly to establish salaries by statute and to void a salary rule of the commission. Provides for the salary of public officers 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 conforming changes. (The introduced version of this bill was prepared by the public officers compensation study committee.)

Effective: July 1, 2000; January 1, 2003.

Mills, Lewis, Harrison, Washington

January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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SENATE BILL No. 248



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

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

- 1 SECTION 1. IC 2-8 IS ADDED TO THE INDIANA CODE AS A
- 2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**
- 3 **2000]:**
- 4 **ARTICLE 8. COMPENSATION 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 compensation**
- 9 **commission established by IC 2-8-2-1.**
- 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**
- 16 **any part from funds derived from taxes imposed by the state**
- 17 **or a political subdivision.**



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

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

15 **Chapter 2. Public Officers Compensation Commission**

16 **Sec. 1. The public officers compensation commission is**
 17 **established.**

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

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

39 (b) A public officer or a public employee may not be a
 40 commission member.

41 **Sec. 3. (a) The term of a commission member begins on the later**
 42 **of the following:**

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- 1 (1) July 1 after the member is appointed.
- 2 (2) The day the member accepts the member's appointment.
- 3 (b) The term of a commission member expires on July 1 of the
- 4 fourth year after the year the member's term begins.
- 5 (c) A member may be reappointed to serve a new term.
- 6 Sec. 4. (a) If there is a vacancy on the commission, the public
- 7 officer who appointed the member whose position is vacant shall
- 8 appoint an individual to fill the vacancy as provided in section 2 of
- 9 this chapter.
- 10 (b) The member appointed under this section shall fill the
- 11 vacancy for the remainder of the unexpired term.
- 12 Sec. 5. (a) At the commission's last meeting before July 1 of each
- 13 year, the commission shall elect one (1) member to be chair of the
- 14 commission.
- 15 (b) The member who is elected chair of the commission serves
- 16 as chair beginning July 1 after election by the commission.
- 17 Sec. 6. Five (5) commission members constitute a quorum. The
- 18 affirmative vote of at least five (5) commission members is
- 19 necessary for the commission to take official action other than to
- 20 adjourn or to meet to hear reports or testimony.
- 21 Sec. 7. The commission shall meet at least two (2) times each
- 22 odd-numbered year at the call of the chair. The commission may
- 23 meet at other times as the commission considers necessary.
- 24 Sec. 8. Each member of the commission is entitled to the
- 25 following:
- 26 (1) The salary per diem provided under IC 4-10-11-2.1(b).
- 27 (2) Reimbursement for traveling expenses as provided under
- 28 IC 4-13-1-4.
- 29 (3) Other expenses actually incurred in connection with the
- 30 member's duties as provided in the state policies and
- 31 procedures established by the Indiana department of
- 32 administration and approved by the budget agency.
- 33 Sec. 9. The legislative services agency shall provide
- 34 administrative support for the commission. At the request of the
- 35 legislative services agency, the state personnel department or the
- 36 Indiana judicial center established by IC 33-13-14-2 shall assign
- 37 staff to provide research and other support to assist the legislative
- 38 services agency in providing administrative support to the
- 39 commission.
- 40 Sec. 10. The commission may contract with consultants as the
- 41 commission considers necessary to implement this article.
- 42 Sec. 11. The commission may adopt rules under IC 4-22-2 to fix

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1 salaries of public officers.

2 Sec. 12. The commission may adopt bylaws to govern
3 commission proceedings. A bylaw is not required to be adopted as
4 a rule under IC 4-22-2.

5 Sec. 13. The commission shall make reports to the general
6 assembly as required by the legislative council.

7 Sec. 14. There is appropriated to the legislative services agency
8 from the state general fund money necessary for the operation of
9 the commission.

10 Chapter 3. Adoption of Rules to Set Salaries of Public Officers

11 Sec. 1. The commission shall meet at least one (1) time before
12 April 1 of each odd-numbered year to do the following:

- 13 (1) Receive information relating to the salaries of public
14 officers.
15 (2) Consider recommendations for suitable salaries for public
16 officers.
17 (3) Take testimony relating to the salaries of public officers.
18 (4) Adopt, if necessary, proposed rules to set the salaries of
19 public officers.

20 Sec. 2. (a) The commission shall meet at least one (1) time after
21 March 31 and before July 1 of each odd-numbered year to adopt
22 final rules based on proposed rules adopted under section 1 of this
23 chapter.

24 (b) The commission must adopt a separate rule for each
25 separate public officer listed in IC 2-8-1-5.

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

29 (d) If the commission does not adopt a rule relating to the salary
30 of a public officer, the salary of the public officer is the salary
31 provided by law.

32 Sec. 3. A final rule adopted under section 2 of this chapter must
33 be published in the September edition of the Indiana Register.

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

- 36 (1) The responsibilities of the office.
37 (2) The educational background required or desired for an
38 individual who holds the office.
39 (3) The skills required or desired for the office.
40 (4) The experience required or desired for the office.
41 (5) The time required or desired to be spent to fulfill the
42 duties of the office.



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- 1 **(6) The opportunity or lack of opportunity that an individual**
 2 **who holds the office has to earn other income.**
 3 **(7) The salaries paid to government officers in other states**
 4 **that have comparable duties and authority.**
 5 **(8) Salaries paid to comparable professionals in the private**
 6 **sector in Indiana and other comparable states based on the**
 7 **responsibility and discretion required from or desired in an**
 8 **individual who holds the office.**
 9 **(9) The increase in the cost of living in Indiana since the most**
 10 **recent increase in the salary of the public officer.**
 11 **(10) Benefits other than salaries provided to public officers.**
 12 **(11) Ability to attract and retain qualified individuals to be**
 13 **public officers.**
 14 **(12) The interests and welfare of the public.**
 15 **(13) The financial ability of the state to meet the costs of**
 16 **salaries recommended by the commission.**
 17 **(14) Other factors the commission considers relevant.**
 18 **(b) The commission may give the weight to the factors described**
 19 **in subsection (a) that the commission considers appropriate.**
 20 **(c) The commission has no authority over benefits other than**
 21 **salaries. However, the commission may make recommendations to**
 22 **the general assembly concerning benefits other than salaries.**
 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 takes effect on the second Monday in January after an**
 27 **election for governor if the general assembly has not voided**
 28 **the rule.**
 29 **(2) If the rule relates to the salary of members of the general**
 30 **assembly, the final rule takes effect January 1 after the next**
 31 **general election for members of the general assembly if the**
 32 **general assembly has not voided the rule.**
 33 **(3) If the rule relates to the salary of a public officer other**
 34 **than the governor or members of the general assembly, the**
 35 **final rule takes effect on January 1 of the next odd-numbered**
 36 **year if the general assembly has not voided the rule.**
 37 **Sec. 6. A rule relating to the salary of a public officer described**
 38 **in Article 7, Section 19 of the Constitution of the State of Indiana**
 39 **may not diminish the compensation of the public officer below its**
 40 **current level.**
 41 **Sec. 7. This article does not affect the authority of the general**
 42 **assembly to do the following:**



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1 **(1) Set salaries of public officers by statute.**

2 **(2) Void a rule of the commission by statute before or, subject**
3 **to section 6 of this chapter, after the rule takes effect.**

4 **Sec. 8. (a) If the general assembly voids a rule of the commission**
5 **or repeals a statute that sets the salary of a public officer, the**
6 **salary of the public officer is the salary of the public officer set in**
7 **the most recent rule or statute in effect.**

8 **(b) If the general assembly voids a rule of the commission or**
9 **repeals a statute that sets the salary of a public officer, the**
10 **commission shall adopt a rule that states the salary of the public**
11 **officer set in the most recent rule or statute in effect.**

12 SECTION 2. IC 4-3-3-1.1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.1. (a) An individual
14 who holds the office of governor for any length of time during one (1)
15 term of that office is entitled to receive an annual retirement benefit
16 under subsection (e). Provided, however, an individual who succeeds
17 to the office of governor without being elected is not entitled to an
18 annual retirement benefit under this section unless such person serves
19 for more than one (1) year of the term of the office.

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

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

29 (d) The retirement benefit shall be paid in equal monthly
30 installments by the treasurer of state on warrant of the auditor of state
31 after a claim has been made for the retirement benefit to the auditor by
32 the governor or a person acting on his behalf. A governor shall choose
33 the date on which he will begin receiving his retirement benefit;
34 however, the date must be the first state employee payday of a month.
35 A governor may not receive the retirement benefit as long as he holds
36 an elective position with any federal, state, or local governmental unit,
37 and he may not receive the retirement benefit until he has reached at
38 least age sixty-two (62) years. The governor's choice of initial benefit
39 payment date and the governor's choice of benefit payment amount
40 under subsections (e) and (f) are revocable until the governor receives
41 the first monthly installment of his retirement benefit; after that
42 installment is received, the choice of date and the choice of amount are



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- 1 irrevocable.
- 2 (e) With respect to a governor who is entitled to a retirement benefit
- 3 under subsection (a):
- 4 (1) if he chooses to begin receiving his retirement benefit on or
- 5 after the date he reaches age sixty-two (62) years but before he
- 6 reaches age sixty-five (65) years, he may choose to receive:
- 7 (A) the retirement benefits he is entitled to, if any, from the
- 8 public employees' retirement fund; or
- 9 (B) thirty percent (30%) of the governor's annual salary set:
- 10 (i) in IC 4-2-1-1 **before January 1, 2003; and**
- 11 (ii) **under IC 2-8 after December 31, 2002;**
- 12 for the remainder of his life; or
- 13 (2) if he chooses to begin receiving his retirement benefit on or
- 14 after the date he reaches age sixty-five (65) years, he may choose
- 15 to receive:
- 16 (A) the retirement benefits he is entitled to, if any, from the
- 17 public employees' retirement fund; or
- 18 (B) forty percent (40%) of the governor's annual salary set:
- 19 (i) in IC 4-2-1-1 **before January 1, 2003; and**
- 20 (ii) **under IC 2-8 after December 31, 2002;**
- 21 for the remainder of his life.
- 22 (f) With respect to a governor who is entitled to a retirement benefit
- 23 under subsection (b):
- 24 (1) if he chooses to begin receiving his retirement benefit on or
- 25 after the date he reaches age sixty-two (62) years but before he
- 26 reaches age sixty-five (65) years, he may choose to receive:
- 27 (A) the retirement benefits he is entitled to, if any, from the
- 28 public employees' retirement fund;
- 29 (B) forty percent (40%) of the governor's annual salary set:
- 30 (i) in IC 4-2-1-1 **before January 1, 2003; and**
- 31 (ii) **under IC 2-8 after December 31, 2002;**
- 32 for the remainder of his life; or
- 33 (2) if he chooses to begin receiving his retirement benefit on or
- 34 after the date he reaches age sixty-five (65) years, he may choose
- 35 to receive:
- 36 (A) the retirement benefits he is entitled to, if any, from the
- 37 public employees' retirement fund; or
- 38 (B) fifty percent (50%) of the governor's annual salary set:
- 39 (i) in IC 4-2-1-1 **before January 1, 2003; and**
- 40 (ii) **under IC 2-8 after December 31, 2002;**
- 41 for the remainder of his life.
- 42 SECTION 3. IC 33-3-5-7 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) The judge of the tax court is
2 entitled to an annual salary:

- 3 (1) equal to the annual salary provided in IC 33-13-12-9 to a
4 judge of the court of appeals **before January 1, 2003; and**
5 **(2) set under IC 2-8 after December 31, 2002.**

6 (b) In addition, the judge of the tax court is entitled to the following:

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

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

15 ~~(b)~~ (c) The judge of the tax court:

- 16 (1) shall devote full time to judicial duties; and
17 (2) may not engage in the practice of law.

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

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

22 SECTION 4. IC 33-5-37.7-5 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. The judge of the
24 court is entitled to the salary set out in:

- 25 (1) IC 33-13-12 **before January 1, 2003; and**
26 **(2) under IC 2-8 after December 31, 2002.**

27 The salary shall be paid in the same manner as the salary of a circuit
28 court judge, and the portion of the salary to be paid by the counties
29 shall be paid by Ohio and Switzerland counties in equal portions.

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

34 (b) The salary of every county court judge, as set:

- 35 (1) by IC 33-13-12 **before January 1, 2003; and**
36 **(2) under IC 2-8 after December 31, 2002;**

37 shall be paid in equal monthly installments.

38 SECTION 6. IC 33-13-12-7.1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7.1. (a) The total
40 annual salary of each full-time judge of a circuit, superior, municipal,
41 county, or probate court is:

- 42 (1) ninety thousand dollars (\$90,000) ~~and~~ **before January 1,**



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1 **2003; and**

2 **(2) the salary set under IC 2-8 after December 31, 2002;**

3 **plus** any additional salary provided under IC 36-2-5-14 or
4 IC 36-3-6-3(c). The state shall pay all of the total salary except for the
5 additional salary, if any, under IC 36-2-5-14 or IC 36-3-6-3(c). The
6 state shall deposit quarterly the money received from the counties
7 under subsection (c) in the state general fund.

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

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

14 (1) the payment made on behalf of that judge;

15 (2) previous payments made on behalf of that judge in the same
16 calendar year; and

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

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

34 (1) is established by the state;

35 (2) applies to a judge who is covered by this section; and

36 (3) bases the amount of premiums to be paid by the judge on the
37 amount of the judge's salary;

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

40 SECTION 7. IC 33-13-12-9 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The total annual
42 salary for each justice of the supreme court of Indiana is:

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1 (1) one hundred fifteen thousand dollars (\$115,000) **before**
2 **January 1, 2003; and**
3 (2) **the salary set under IC 2-8 after December 31, 2002.**
4 (b) The total annual salary for each judge of the **Indiana** court of
5 appeals of ~~Indiana~~ is:
6 (1) one hundred ten thousand dollars (\$110,000) **before January**
7 **1, 2003; and**
8 (2) **the salary set under IC 2-8 after December 31, 2002.**
9 (c) The state shall pay the annual salaries prescribed in subsections
10 (a) through (b) from the state general fund.
11 (d) In addition to ~~said~~ **the** salary, there shall be paid in equal
12 monthly payments on the first day of each month out of any money in
13 the general fund of the state treasury not otherwise appropriated, the
14 following annual subsistence allowances to assist in defraying expenses
15 relating to or resulting from the discharge of the justice's or judge's
16 official duties, for which no accounting shall be made by such judge:
17 (1) Five thousand five hundred dollars (\$5,500) to the chief
18 justice of the supreme court.
19 (2) Five thousand five hundred dollars (\$5,500) to the chief judge
20 of the court of appeals.
21 (3) Three thousand dollars (\$3,000) to each justice of the supreme
22 court who is not the chief justice.
23 (4) Three thousand dollars (\$3,000) to each judge of the court of
24 appeals who is not the chief judge.
25 (e) The state shall not furnish automobiles for the use of justices or
26 judges compensated ~~under~~ **as provided in** this section.
27 SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE
28 JANUARY 1, 2003]: IC 2-3-1; IC 4-2-1-1.
29 SECTION 9. [EFFECTIVE JULY 1, 2000] (a) **As used in this**
30 **SECTION, "commission" refers to the public officers**
31 **compensation commission established by IC 2-8-2-1, as added by**
32 **this act.**
33 (b) **Notwithstanding IC 2-8-2-3, as added by this act, the term**
34 **of a commission member expires as follows:**
35 (1) **The term of a member appointed by the president pro**
36 **tempore of the senate under IC 2-8-2-2(a)(1), as added by this**
37 **act, expires July 1, 2004.**
38 (2) **The term of a member appointed by the speaker of the**
39 **house of representatives under IC 2-8-2-2(a)(2), as added by**
40 **this act, expires July 1, 2004.**
41 (3) **The term of a member appointed by the minority leader of**
42 **the senate under IC 2-8-2-2(a)(3), as added by this act, expires**

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July 1, 2003.

(4) The term of a member appointed by the minority leader of the house of representatives under IC 2-8-2-2(a)(4), as added by this act, expires July 1, 2003.

(5) The term of a member appointed by the chief justice of the supreme court of Indiana under IC 2-8-2-2(a)(5), as added by this act, expires July 1, 2002.

(6) The term of a member appointed by the chief judge of the Indiana court of appeals under IC 2-8-2-2(a)(6), as added by this act, expires July 1, 2002.

(7) The term of a member appointed by the governor under IC 2-8-2-2(a)(7), as added by this act, expires as follows:

(A) The terms of two (2) members expire July 1, 2004.

(B) The term of one (1) member expires July 1, 2003.

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, 2004.

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