



April 1, 2005

**ENGROSSED
HOUSE BILL No. 1346**

DIGEST OF HB 1346 (Updated March 31, 2005 10:30 am - DI 102)

Citations Affected: IC 5-10; IC 5-10.3; noncode.

Synopsis: Deferred compensation plans. Allows a political subdivision to offer to its employees both the state employees' deferred compensation plan and a deferred compensation plan that is adopted by the political subdivision and uses one or more private vendors. Requires the board of trustees of the public employees' retirement fund (fund) to establish a retirement medical benefits account within the fund, under Section 401(h) or another applicable section of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for state employees to fund on a pretax basis benefits for post-retirement sickness, accident, hospitalization, and medical expenses of the state employees, their spouses, and their dependents. Requires that state employees be able to convert unused accrued excess leave to either the state deferred compensation plan (plan) or the retirement medical benefits account. Requires that the deferred compensation committee adopt a pilot program that allows the employees of at least one branch of state government to convert unused accrued excess leave to a monetary contribution to the plan not later than December 31, 2005. Requires the state auditor to administer the pilot program. (The introduced version of this bill was prepared by the pension management oversight commission.)

Effective: Upon passage; July 1, 2005.

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Buell, Kromkowski, Ayres

(SENATE SPONSORS — HARRISON, CRAYCRAFT)

January 13, 2005, read first time and referred to Committee on Employment and Labor.
January 24, 2005, reported — Do Pass.
January 27, 2005, read second time, ordered engrossed. Engrossed.
January 31, 2005, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 14, 2005, read first time and referred to Committee on Pensions and Labor.
March 31, 2005, amended, reported favorably — Do Pass.

EH 1346—LS 6211/DI 102+



April 1, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1346

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

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

- 1 SECTION 1. IC 5-10-1.1-1.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) The state,
- 3 through the budget agency, may adopt a defined contribution plan,
- 4 under Section 401(a) of the Internal Revenue Code, for the purpose of
- 5 matching all or a specified portion of state employees' contributions to
- 6 the state employees' deferred compensation plan and for any additional
- 7 purposes established by statute.
- 8 (b) The deferred compensation committee shall be the trustee of a
- 9 plan established under subsection (a) as described in section 4 of this
- 10 chapter. A plan established under subsection (a) shall be administered
- 11 by the auditor of state as described in section 5 of this chapter.
- 12 (c) The deferred compensation committee may approve funding
- 13 offerings for a plan established under subsection (a), which may be the
- 14 same as offerings for the state employees' deferred compensation plan.
- 15 All funds in each plan shall be separately accounted for but may be
- 16 commingled for investment purposes.
- 17 (d) Contributions to a plan established under subsection (a) are

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EH 1346—LS 6211/DI 102+



1 limited to the amount of biennial appropriations the budget agency
2 determines are available for any such purposes. The deferred
3 compensation committee may use funds available under the plan to hire
4 or contract with qualified attorneys, financial advisers, or other
5 professional or administrative persons that the committee believes are
6 necessary or useful in the administration of the plan.

7 (e) A plan established under subsection (a) must include appropriate
8 provisions concerning the plan's day to day operation and any other
9 provisions that are appropriate. Notwithstanding IC 22-2-6-2, the plan
10 may also include provisions for the use of automated voice response
11 units and telephonic communications, online activities, and other
12 technology for participant elections, directions, and services if the
13 technology has sufficient capacity to record and store the elections and
14 directions.

15 (f) The state is obligated at any particular time only for the current
16 market value of the funding previously made to a plan established
17 under subsection (a).

18 (g) The state board of finance shall extend the plan established
19 under subsection (a) to any political subdivision that also elects to use
20 the state employees' deferred compensation plan for its employees as
21 authorized in section 7(b)(2) or 7(b)(3) of this chapter.

22 SECTION 2. IC 5-10-1.1-4 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The deferred
24 compensation committee is established. The committee consists of five
25 (5) persons appointed by the state board of finance as follows:

- 26 (1) Each member of the state board of finance shall appoint one
- 27 (1) member to the committee.
- 28 (2) The remaining two (2) members:
- 29 (A) must be participants in the state employees' deferred
- 30 compensation plan;
- 31 (B) may not be employees of the members of the state board
- 32 of finance;
- 33 (C) must be from different political parties; and
- 34 (D) may not serve for more than two (2) consecutive three (3)
- 35 year terms.

36 (b) The deferred compensation committee may annually elect a
37 chairperson and a secretary.

38 (c) The deferred compensation committee may approve proposed
39 investment products for the state employees' deferred compensation
40 plan.

41 (d) All amounts deferred under the state employees' deferred
42 compensation plan must be put into a trust for the exclusive benefit of

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1 plan participants, as required by Section 457(g) of the Internal Revenue
2 Code. The deferred compensation committee is the trustee of the trust.

3 (e) The plan shall include appropriate provisions pertaining to its
4 day to day operation providing for methods of electing to defer income,
5 methods of changing the amount of income to be deferred, and such
6 other provisions as may be appropriate. Notwithstanding IC 22-2-6-2,
7 the plan may also include provisions for the use of automated voice
8 response units and telephonic communications, on-line activities, and
9 other technology for participant elections, directions, and services if the
10 technology has sufficient capacity to record and store the elections and
11 directions.

12 (f) The plan shall provide for the preparation and distribution, from
13 time to time to all eligible employees, of pamphlets describing the plan
14 and outlining the opportunities available to employees under the plan.

15 (g) The state board of finance shall extend the plan to any political
16 subdivision which elects to utilize the state employees' deferred
17 compensation plan for its employees as authorized in section 7(b)(2) **or**
18 **7(b)(3)** of this chapter.

19 (h) At least annually, the deferred compensation committee shall
20 report to the state board of finance on the status of the state employees'
21 deferred compensation plan, including any changes to the plan.

22 SECTION 3. IC 5-10-1.1-7 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Any political
24 subdivision (as defined by IC 36-1-2-13) may establish for its
25 employees a deferred compensation plan. The plan shall be selected by
26 the governing body of the political subdivision, which in the case of a
27 unit subject to IC 36-1-3 shall be done by ordinance. Participation shall
28 be by written agreement between each employee and the governing
29 body of the political subdivision, which agreement provides for the
30 deferral of compensation and subsequent administration of such funds.

31 (b) For funding such agreements, the governing body of the political
32 subdivision may:

33 (1) designate one (1) of its agencies or departments to establish
34 and administer such plans and choose such funding as deemed
35 appropriate by the agency or department, which may include more
36 than one (1) funding product; **or**

37 (2) extend the state employees' deferred compensation plan to
38 employees of the political subdivision, subject to the terms and
39 conditions of the state employees' deferred compensation plan as
40 it is established from time to time; **or**

41 **(3) offer both of the plans described in subdivisions (1) and**
42 **(2).**

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1 (c) This section does not limit the power or authority of any political
2 subdivision to establish and administer other plans deemed appropriate
3 by the governing bodies of such subdivisions, including plans
4 established under section 1(2) of this chapter.

5 SECTION 4. IC 5-10-1.1-7.3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.3. (a) Any political
7 subdivision (as defined in IC 36-1-2-13) that elects to use the state
8 employees' deferred compensation plan for its employees as authorized
9 in section 7(b)(2) or 7(b)(3) of this chapter also may elect to
10 participate in the state's defined contribution plan established by
11 section 1.5 of this chapter for the purpose of matching all or a specified
12 portion of the political subdivision's employees' contributions to the
13 deferred compensation plan.

14 (b) Participation in the state's defined contribution plan described
15 in subsection (a) shall be authorized by the governing body of the
16 political subdivision, which in the case of a unit subject to IC 36-1-3
17 shall be done by ordinance.

18 (c) Contributions by a political subdivision to the state's defined
19 contribution plan described in subsection (a) for the purpose of
20 matching all or a specified portion of employee contributions are
21 limited to the amount of appropriations made each year for that
22 purpose.

23 (d) The political subdivision is obligated at any particular time only
24 for the current market value of the funding previously made to the
25 state's defined contribution plan described in subsection (a).

26 (e) This section does not limit the power or authority of any political
27 subdivision to establish and administer any other plans considered
28 appropriate by the governing body of the political subdivision,
29 including plans established under section 1(2) of this chapter.

30 SECTION 5. IC 5-10-1.1-7.5 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in
32 this section, "state agency" means the following:

- 33 (1) An authority, a board, a branch, a commission, a committee,
34 a department, a division, or other instrumentality of state
35 government.
- 36 (2) A separate corporate body politic that adopts the plan
37 described in subsection (b).
- 38 (3) State elected officials and their office staff.
- 39 (4) The legislative services agency.
- 40 (5) Legislative staff eligible to participate in the state employees'
41 deferred compensation plan established by section 1 of this
42 chapter.

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1 However, the term does not include a state educational institution (as
2 defined in IC 20-12-0.5-1) or a political subdivision.

3 (b) The deferred compensation committee shall adopt provisions in
4 a defined contribution plan, under Sections 401(a) and 414(d) of the
5 Internal Revenue Code, for the purpose of converting unused excess
6 accrued leave to a monetary contribution for employees of a state
7 agency. These provisions may be part of the plan and trust established
8 under section 1.5(a) of this chapter.

9 (c) The deferred compensation committee is the trustee of the plan
10 described in subsection (b). The plan must be a qualified plan, as
11 determined by the Internal Revenue Service.

12 (d) The state personnel department shall adopt rules under IC 4-22-2
13 that it considers appropriate or necessary to implement this section.
14 The rules adopted by the state personnel department under this section
15 must:

16 (1) be consistent with the plan described in subsection (b);

17 (2) include provisions concerning:

18 (A) the type and amount of leave that may be converted to a
19 monetary contribution;

20 (B) the conversion formula for valuing any leave that is
21 converted;

22 (C) the manner of employee selection of leave conversion; and

23 (D) the vesting schedule for any leave that is converted; and

24 (3) apply to all state agencies.

25 (e) The rules adopted by the state personnel department under
26 subsection (d) specifying the conversion formula must provide for a
27 conversion rate under which the amount contributed on behalf of a
28 participating employee for a day of leave that is converted under this
29 section is equal to at least sixty percent (60%) of the employee's daily
30 pay as of the date the leave is converted.

31 (f) The deferred compensation committee may adopt the following:

32 (1) Plan provisions governing:

33 (A) the investment of accounts in the plan; and

34 (B) the accounting for converted leave.

35 (2) Any other plan provisions that are necessary or appropriate for
36 operation of the plan.

37 (g) The plan described in subsection (b) may be implemented only
38 if the deferred compensation committee has received from the Internal
39 Revenue Service any rulings or determination letters that the
40 committee considers necessary or appropriate.

41 **(h) To the extent allowed by:**

42 **(1) the Internal Revenue Code; and**

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(2) rules adopted by:
(A) the state personnel department under this section; and
(B) the public employees' retirement fund under
IC 5-10.3-8-14;
an employee of a state agency may convert unused excess accrued
leave to a monetary contribution under this section and under
IC 5-10.3-8-14.

SECTION 6. IC 5-10.3-8-14 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2005]: **Sec. 14. (a) This section applies to employees of the state**
(as defined in 5-10.3-7-1(d)) who are members of the fund.

(b) The board shall adopt provisions to establish a retirement
medical benefits account within the fund, under Section 401(h) or
another applicable section of the Internal Revenue Code, for the
purpose of converting unused excess accrued leave to a monetary
contribution for employees of the state to fund on a pretax basis
benefits for sickness, accident, hospitalization, and medical
expenses for retired employees of the state, their spouses, and their
dependents.

(c) The board is the trustee of the account described in
subsection (b). The account must be qualified, as determined by the
Internal Revenue Service, as a separate account within the fund
whose benefits are subordinate to the retirements benefits provided
by the fund.

(d) The board shall adopt rules under IC 5-10.3-3-8 that it
considers appropriate or necessary to implement this section after
consulting with the state personnel department. The rules adopted
by the board under this section must:

- (1) be consistent with the account described in subsection (b)**
and the fund;
- (2) include provisions concerning:**
 - (A) the type and amount of leave that may be converted to**
a monetary contribution;
 - (B) the conversion formula for valuing any leave that is**
converted;
 - (C) the manner of employee selection of leave conversion;**
and
 - (D) the vesting schedule for any leave that is converted.**

- (e) The board may adopt the following:**
 - (1) Account provisions governing:**
 - (A) the investment of amounts in the account; and**
 - (B) the accounting for converted leave.**

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1 (2) Any other provisions that are necessary or appropriate for
2 operation of the account.
3 (f) The account described in subsection (b) may be implemented
4 only if the board has received from the Internal Revenue Service
5 any rulings or determination letters that the board considers
6 necessary or appropriate.
7 (g) To the extent allowed by:
8 (1) the Internal Revenue Code; and
9 (2) rules adopted by:
10 (A) the board under this section; and
11 (B) the state personnel department under IC 5-10-1.1-7.5;
12 employees of the state may convert unused excess accrued leave to
13 a monetary contribution under this section and under
14 IC 5-10-1.1-7.5.
15 SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this
16 SECTION, "committee" refers to the deferred compensation
17 committee established by IC 5-10-1.1-4.
18 (b) As used in this SECTION, "plan" refers to the deferred
19 compensation plan described in IC 5-10-1.1-1.5.
20 (c) The committee shall adopt a pilot program that enables the
21 employees of at least one (1) branch of state government to make
22 the first conversion of unused excess accrued leave to a monetary
23 contribution under the plan not later than December 31, 2005.
24 (d) The auditor of state shall provide for the administration of
25 the pilot program under IC 5-10-1.1-5.
26 (e) The provisions of IC 5-10-1.1-7.5 apply to the pilot program
27 described in subsection (c).
28 (f) This SECTION expires on the earlier of:
29 (1) the date the leave conversion provisions of the plan are
30 fully implemented on a permanent basis for all state agencies
31 (as defined in IC 5-10-1.1-7.5(a)); or
32 (2) July 1, 2010.
33 SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this
34 SECTION, "department" refers to the state personnel department
35 established by IC 4-15-1.8-2.
36 (b) Notwithstanding IC 5-10-1.1-7.5(d), the department shall
37 adopt any rules to implement IC 5-10-1.1-7.5, as amended by this
38 act, and SECTION 7 of this act, in the same manner as emergency
39 rules are adopted under IC 4-22-2-37.1.
40 (c) Any rules adopted under this SECTION must be adopted so
41 that employees of at least one (1) branch of state government are
42 able to make the first conversion of unused excess accrued leave

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1 **not later than December 31, 2005.**
2 **(d) A rule adopted under this SECTION expires on the earlier**
3 **of:**
4 **(1) the date rules are adopted by the department under**
5 **IC 4-22-2-24 through IC 4-22-2-36 to implement**
6 **IC 5-10-1.1-7.5, as amended by this act, for all state agencies**
7 **(as defined in IC 5-10-1.1-7.5(a)); or**
8 **(2) July 1, 2010.**
9 **(e) This SECTION expires July 1, 2010.**
10 **SECTION 9. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1346, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

TORR, Chair

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1346, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, after line 29, begin a new paragraph and insert:

"SECTION 5. IC 5-10-1.1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "state agency" means the following:

- (1) An authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of state government.
- (2) A separate corporate body politic that adopts the plan described in subsection (b).
- (3) State elected officials and their office staff.
- (4) The legislative services agency.
- (5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by section 1 of this chapter.

However, the term does not include a state educational institution (as defined in IC 20-12-0.5-1) or a political subdivision.

(b) The deferred compensation committee shall adopt provisions in a defined contribution plan, under Sections 401(a) and 414(d) of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. These provisions may be part of the plan and trust established under section 1.5(a) of this chapter.

(c) The deferred compensation committee is the trustee of the plan described in subsection (b). The plan must be a qualified plan, as determined by the Internal Revenue Service.

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(d) The state personnel department shall adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this section. The rules adopted by the state personnel department under this section must:

- (1) be consistent with the plan described in subsection (b);
- (2) include provisions concerning:
 - (A) the type and amount of leave that may be converted to a monetary contribution;
 - (B) the conversion formula for valuing any leave that is converted;
 - (C) the manner of employee selection of leave conversion; and
 - (D) the vesting schedule for any leave that is converted; and
- (3) apply to all state agencies.

(e) The rules adopted by the state personnel department under subsection (d) specifying the conversion formula must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that is converted under this section is equal to at least sixty percent (60%) of the employee's daily pay as of the date the leave is converted.

(f) The deferred compensation committee may adopt the following:

- (1) Plan provisions governing:
 - (A) the investment of accounts in the plan; and
 - (B) the accounting for converted leave.
- (2) Any other plan provisions that are necessary or appropriate for operation of the plan.

(g) The plan described in subsection (b) may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate.

(h) To the extent allowed by:

- (1) the Internal Revenue Code; and**
- (2) rules adopted by:**
 - (A) the state personnel department under this section; and**
 - (B) the public employees' retirement fund under IC 5-10.3-8-14;**

an employee of a state agency may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10.3-8-14.

SECTION 6. IC 5-10.3-8-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) This section applies to employees of the state (as defined in 5-10.3-7-1(d)) who are members of the fund.**

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(b) The board shall adopt provisions to establish a retirement medical benefits account within the fund, under Section 401(h) or another applicable section of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for employees of the state to fund on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for retired employees of the state, their spouses, and their dependents.

(c) The board is the trustee of the account described in subsection (b). The account must be qualified, as determined by the Internal Revenue Service, as a separate account within the fund whose benefits are subordinate to the retirements benefits provided by the fund.

(d) The board shall adopt rules under IC 5-10.3-3-8 that it considers appropriate or necessary to implement this section after consulting with the state personnel department. The rules adopted by the board under this section must:

- (1) be consistent with the account described in subsection (b) and the fund;
- (2) include provisions concerning:
 - (A) the type and amount of leave that may be converted to a monetary contribution;
 - (B) the conversion formula for valuing any leave that is converted;
 - (C) the manner of employee selection of leave conversion; and
 - (D) the vesting schedule for any leave that is converted.

(e) The board may adopt the following:

- (1) Account provisions governing:
 - (A) the investment of amounts in the account; and
 - (B) the accounting for converted leave.
- (2) Any other provisions that are necessary or appropriate for operation of the account.

(f) The account described in subsection (b) may be implemented only if the board has received from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate.

(g) To the extent allowed by:

- (1) the Internal Revenue Code; and
- (2) rules adopted by:
 - (A) the board under this section; and
 - (B) the state personnel department under IC 5-10-1.1-7.5;

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employees of the state may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10-1.1-7.5.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the deferred compensation committee established by IC 5-10-1.1-4.

(b) As used in this SECTION, "plan" refers to the deferred compensation plan described in IC 5-10-1.1-1.5.

(c) The committee shall adopt a pilot program that enables the employees of at least one (1) branch of state government to make the first conversion of unused excess accrued leave to a monetary contribution under the plan not later than December 31, 2005.

(d) The auditor of state shall provide for the administration of the pilot program under IC 5-10-1.1-5.

(e) The provisions of IC 5-10-1.1-7.5 apply to the pilot program described in subsection (c).

(f) This SECTION expires on the earlier of:

- (1) the date the leave conversion provisions of the plan are fully implemented on a permanent basis for all state agencies (as defined in IC 5-10-1.1-7.5(a)); or
- (2) July 1, 2010.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the state personnel department established by IC 4-15-1.8-2.

(b) Notwithstanding IC 5-10-1.1-7.5(d), the department shall adopt any rules to implement IC 5-10-1.1-7.5, as amended by this act, and SECTION 7 of this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1.

(c) Any rules adopted under this SECTION must be adopted so that employees of at least one (1) branch of state government are able to make the first conversion of unused excess accrued leave not later than December 31, 2005.

(d) A rule adopted under this SECTION expires on the earlier of:

- (1) the date rules are adopted by the department under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 5-10-1.1-7.5, as amended by this act, for all state agencies (as defined in IC 5-10-1.1-7.5(a)); or
- (2) July 1, 2010.

(e) This SECTION expires July 1, 2010.

SECTION 9. An emergency is declared for this act."

COPY



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1346 as printed January 25, 2005.)

HARRISON, Chairperson

Committee Vote: Yeas 6, Nays 0.

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