February 23, 2007

SENATE BILL No. 401

DIGEST OF SB 401 (Updated February 20, 2007 1:00 pm - DI 73)

Citations Affected: IC 2-3; IC 2-3.5; IC 2-5; IC 4-2; IC 5-10.

Synopsis: Compensation of state officers and legislators. Provides that beginning in 2009, the annual salary of the members of the general assembly is an amount equal to 18% of the annual salary of a trial court judge. Beginning in 2009: (1) establishes the state's annual contribution for a participant in the legislators' defined contribution plan as a percentage of the participant's salary; (2) requires the board of trustees of the public employees' retirement fund (PERF) to determine the percentage annually; (3) requires the budget agency to confirm the percentage determined by the PERF board; and (4) requires that the percentage be determined using the state's employer contribution rate to fund the pension portion of the retirement benefit for state employees who are members of PERF and the rate at which the state makes contributions to annuity savings accounts on behalf of state employees who are members of PERF. Provides that the percentage may not exceed the state's total contribution rate for state employees who are members of PERF. Effective January 1, 2009, repeals a provision establishing the state's annual contribution for a participant in the legislators' defined contribution plan as 20% of the participant's annual salary. Effective January 1, 2009, defines salary for purposes of the contributions. Removes the statutory authority of the president pro tempore of the senate and the speaker of the house of representatives to elect to pay any part of the health insurance premium of a former member of the general assembly or the spouse of a former member of the general assembly whose last day of service is after July 31, 2007. Requires the public officers compensation advisory commission

(Continued next page)

Effective: July 1, 2007; January 1, 2009.

Dillon, Rogers, Long, Young R

January 18, 2007, read first time and referred to Committee on Tax and Fiscal Policy.
February 22, 2007, amended, reported favorably — Do Pass.

C o p y

Digest Continued

(commission) to make recommendations regarding all elements of compensation paid or provided to a public officer. (Under current law, the commission is limited to making recommendations regarding the salaries of public officers.) Requires the commission to recommend a compensation plan that enables an individual who is a public officer to select compensation elements to meet the individual's own circumstances while ensuring that individuals who hold the same public office receive compensation of equal value. Provides for salary adjustments certain state elected officials for periods during which the general assembly does not enact an increase. Appropriates from the state general fund amounts sufficient to fund any salary increases.

C o p y

February 23, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 401

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:

SECTION 1. IC 2-3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** The annual salary of the members of the general assembly shall be **the following:**

(1) Before 2009, eleven thousand six hundred dollars ($11,600).

(2) In 2009 and thereafter, an amount equal to eighteen percent (18%) of the annual salary of a judge under IC 33-38-5-6, as adjusted under IC 33-38-5-8.1.

(b) One-half (1/2) the annual salary shall be paid on the fifteenth day of January, and one-half (1/2) the annual salary shall be paid on the fifteenth day of February.

SECTION 2. IC 2-3.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The defined contribution fund consists of the following:

(1) Each participant's contributions to the fund.

(2) Contributions made to the fund on behalf of the participants under:

(A) section 5 of this chapter **(before its repeal on January 1,**

2009); or

(B) after December 31, 2008, section 5.5 of this chapter.

(3) Amounts transferred to the fund under subsections (b) and (c).

(4) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.

(5) All earnings on investments or on deposits of the funds.

(6) All contributions or payments to the fund made in a manner provided by the general assembly.

(b) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of PERF, any amount in the PERF annuity savings account credited to the participant may at the participant's irrevocable option be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in PERF, may such a transfer be made.

(c) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of TRF, the amount in the TRF annuity savings account credited to the participant may at the participant's irrevocable election be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in TRF, may the transfer be made.

(d) Each participant shall be credited individually with:

(1) the participant's contributions to the fund under section 4 of this chapter, which shall be credited to the participant's account;

(2) the contributions made to the fund on behalf of the participant under:

(A) section 5 of this chapter **(before its repeal on January 1, 2009); or**

(B) after December 31, 2008, section 5.5 of this chapter;

which shall be credited to the participant's account;

(3) the amount transferred to the fund under subsections (b) and (c), which shall be credited to the participant's account; and

(4) the net earnings on the participant's accounts, determined under section 3 of this chapter.

SECTION 3. IC 2-3.5-5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. (a) This section applies to contributions to the defined contribution fund made by the state after December 31, 2008.**

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(b) This subsection applies after December 31, 2008. Notwithstanding IC 2-3.5-2-10, as used in this section, "salary" means the total of the following amounts paid to a participant by the state for performing legislative services in the year in which the amounts are paid, determined without regard to any salary reduction agreement established under Section 125 or Section 457 of the Internal Revenue Code:

(1) Salary.

(2) Business per diem allowance and allowances paid in lieu of the submission of claims for reimbursement (but excluding any allowances paid for mileage).

(3) Allowances paid to officers of the house of representatives and the senate.

(c) This subsection applies after December 31, 2008. The state shall make a contribution to the defined contribution fund on behalf of each participant on June 30 of each year. The amount of the contribution is determined by multiplying the participant's salary for that year by a percentage determined for that year by the PERF board under subsection (d).

(d) This subsection applies after December 31, 2008. The PERF board shall use the following rates in determining the percentage described in subsection (c):

(1) The rate of the state's normal contribution for its employees to PERF, as determined under IC 5-10.2-2-11.

(2) The rate at which the state makes contributions to annuity savings accounts on behalf of state employees who are members of PERF, as specified in IC 5-10.2-3-2 and IC 5-10.3-7-9.

(e) This subsection applies after December 31, 2008. The budget agency shall confirm the percentage determined by the PERF board. The percentage confirmed by the budget agency may not exceed the total contribution rate paid that year by the state to PERF for state employees.

SECTION 4. IC 2-3.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For purposes of this chapter, there is appropriated for each biennium the following sums of money:

(1) From the state general fund, the amount required to equal the contributions specified in:

(A) section 5 of this chapter **(before its repeal on January 1, 2009); or**

(B) after December 31, 2008, section 5.5 of this chapter.

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(2) From the state general fund, the amount required for administration of this chapter.

(b) The biennial appropriation provided in this section shall be credited to the defined contribution fund annually in the month of July of each year of the biennium, based on the amounts specified in subsection (a).

SECTION 5. IC 2-5-1.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. As used in this chapter, "compensation" refers to all of the following elements of compensation:**

(1) Salary.

(2) Deferred compensation.

(3) Health, vision, and dental insurance.

(4) Pension and other retirement benefits.

(5) Any other:

(A) amount paid to an individual; or

(B) benefit provided to an individual;

to compensate the individual for services provided as a public officer.

SECTION 6. IC 2-5-1.5-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.7. As used in this chapter, "compensation value" means the dollar value of all elements of compensation for a public officer.**

SECTION 7. IC 2-5-1.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The commission shall meet at least one (1) time not later than July 1 of each even-numbered year to do the following:

(1) For each public officer listed in section 5 of this chapter, determine the most recent year that **the compensation value for** the public officer ~~received a salary increase.~~ **increased.**

(2) Receive information relating to the ~~salaries~~ **compensation** of public officers.

(3) Consider recommendations for suitable ~~salaries~~ **compensation** for public officers.

(4) Take testimony relating to the ~~salaries~~ **compensation** of public officers.

SECTION 8. IC 2-5-1.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Not later than September 1 of each even-numbered year, the commission shall make written recommendations to the:

(1) legislative council; and

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(2) budget committee;

concerning suitable ~~salaries~~ **elements of compensation** for public officers. The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(b) When making recommendations, the commission shall **do the following:**

(1) Make a separate recommendation ~~including~~ **of compensation value, which may include** a recommendation for no adjustment of ~~salary,~~ **compensation value,** for each separate public officer listed in section 5 of this chapter. ~~(c)~~ The commission may not recommend an increase in the ~~salary of~~ **compensation value for** a public officer to an amount that exceeds the ~~salary~~ **compensation value** the public officer would receive if the ~~salary~~ **compensation value** of the public officer increased each year since the most recent year the public officer received ~~a salary~~ **an** increase **in compensation value** by the growth rate for each respective year.

(2) Recommend maintaining or abolishing existing elements of compensation or establishing new elements of compensation.

(3) Recommend a compensation plan that enables an individual who is a public officer to select elements of compensation to meet the individual's own circumstances while ensuring that individuals who hold the same public office receive compensation of equal compensation value.

(4) Make other recommendations the commission considers useful to provide suitable compensation for public officers.

SECTION 9. IC 2-5-1.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. For purposes of this chapter, a health care adjustment under IC 33-38-5-8.2 is ~~not~~ considered part of the ~~salary~~ **compensation** of a public officer **who is a judicial officer.**

SECTION 10. IC 4-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a) Subject to subsection (b),** the salary of the ~~elected officials of the state is as follows:~~

~~(1) For the~~ governor **is** ninety-five thousand dollars ($95,000) per year.

~~(2) For the lieutenant governor, seventy-six thousand dollars ($76,000) per year. However, the lieutenant governor is not entitled to receive per diem allowance for performance of duties as president of the senate.~~

~~(3) For the secretary of state, sixty-six thousand dollars ($66,000)~~

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~~per year.~~

~~(4) For the auditor of state, sixty-six thousand dollars ($66,000) per year.~~

~~(5) For the treasurer of state, sixty-six thousand dollars ($66,000) per year.~~

~~(6) For the attorney general, seventy-nine thousand four hundred dollars ($79,400) per year.~~

~~(7) For the clerk of the supreme court, before January 1, 2007, sixty thousand dollars ($60,000) per year.~~

~~(8) For the state superintendent of public instruction, seventy-nine thousand four hundred dollars ($79,400) per year.~~

(b) Beginning January 12, 2009, and on the second Monday of January of each succeeding fourth year, the salary of the governor is increased after any four (4) year period during which the general assembly does not amend this section to increase the governor's salary.

(c) The percentage by which salaries are increased under this section is equal to the statewide average percentage, as determined by the budget director, by which the salaries of state employees in the executive branch who are in the same or a similar salary bracket exceed, on January 1 of the current state fiscal year, the salaries of executive branch state employees in the same or a similar salary bracket that were in effect on January 1 of the state fiscal year four (4) years before the current state fiscal year.

(d) The amount of a salary increase under this section is equal to the amount determined by applying the percentage increase for the particular year to the governor's salary, as previously adjusted under this section, that was in effect on January 1 of the state fiscal year four (4) years before the current state fiscal year.

(e) The governor is not entitled to receive a salary increase under this section if state employees described in subsection (c) have not received a statewide average salary increase during the previous four (4) state fiscal years.

(f) If a salary increase is required under this section, an amount sufficient to pay for the salary increase is appropriated from the state general fund.

SECTION 11. IC 4-2-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) Subject to subsection (b), the salary of the state elected officials other than the governor is as follows:**

(1) For the lieutenant governor, seventy-six thousand dollars ($76,000) per year. However, the lieutenant governor is not

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entitled to receive per diem allowance for performance of duties as president of the senate.

(2) For the secretary of state, sixty-six thousand dollars ($66,000) per year.

(3) For the auditor of state, sixty-six thousand dollars ($66,000) per year.

(4) For the treasurer of state, sixty-six thousand dollars ($66,000) per year.

(5) For the attorney general, seventy-nine thousand four hundred dollars ($79,400) per year.

(6) For the state superintendent of public instruction, seventy-nine thousand four hundred dollars ($79,400) per year.

(b) Beginning January 1, 2008, the part of the total salary of a state elected official is increased on January 1 of each year after a year in which the general assembly does not amend this section to provide a salary increase for the state elected official.

(c) The percentage by which salaries are increased under this section is equal to the statewide average percentage, as determined by the budget director, by which the salaries of state employees in the executive branch who are in the same or a similar salary bracket exceed, for the current state fiscal year, the salaries of executive branch state employees in the same or a similar salary bracket that were in effect on January 1 of the immediately preceding year.

(d) The amount of a salary increase under this section is equal to the amount determined by applying the percentage increase for the particular year to the salary of the state elected official, as previously adjusted under this section, that is in effect on January 1 of the immediately preceding year.

(e) A state elected official is not entitled to receive a salary increase under this section on January 1 of a state fiscal year in which state employees described in subsection (c) do not receive a statewide average salary increase.

(f) If a salary increase is required under this section, an amount sufficient to pay for the salary increase is appropriated from the state general fund.

SECTION 12. IC 5-10-8-8, AS AMENDED BY P.L.178-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This section applies only to the state and employees who are not covered by a plan established under section 6 of this chapter.

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(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) who:

(A) for an employee who retires before January 1, 2007, will have completed:

(i) twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(ii) at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date; or

(B) for an employee who retires after December 31, 2006, will have completed fifteen (15) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement.

(c) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

(d) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired participant under the prosecuting attorneys

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retirement fund;

(2) whose retirement date is after January 1, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

(e) The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member, if the former member:

(1) is no longer a member of the general assembly;

(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) has at least ten (10) years of service credit as a member in the general assembly.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

(f) The group health insurance program required under subsections (b) through (e) and subsection (k) must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the employer's and the employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. ~~However,~~ **Except as provided in subsection (l),** the employer may elect to pay any part of the retired employee's premium with respect to insurance coverage under this chapter.

(g) Except as provided in subsection (j), a retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the

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spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-28-10-2(b). An employee who is on leave without pay is entitled to participate for ninety (90) days in any health insurance program maintained by the employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance.

(i) An employer may provide group health insurance for retired employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h).

(j) An employer may elect to permit former employees and their spouses, including surviving spouses, to continue to participate in a group health insurance program under this chapter after the former employee (who is otherwise qualified under this chapter to participate in a group insurance program) or spouse has become eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. An employer who makes an election under this section may require a person who continues coverage under this subsection to participate in a retiree health benefit plan developed under section 8.3 of this chapter.

(k) The state shall provide a group health insurance program to each retired employee:

(1) who was employed as a teacher in a state institution under:

(A) IC 11-10-5;

(B) IC 12-24-3;

(C) IC 16-33-3;

(D) IC 16-33-4;

(E) IC 20-21-2-1; or

(F) IC 20-22-2-1;

(2) who is at least fifty-five (55) years of age on or before the employee's retirement date;

(3) who is not eligible for Medicare coverage as prescribed by 42

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U.S.C. 1395 et seq.; and

(4) who:

(A) has at least fifteen (15) years of service credit as a participant in the retirement fund of which the employee is a member on or before the employee's retirement date; or

(B) completes at least ten (10) years of service credit as a participant in the retirement fund of which the employee is a member immediately before the employee's retirement.

(l) The president pro tempore of the senate and the speaker of the house of representatives may not elect to pay any part of the premium for insurance coverage under this chapter for a former member of the general assembly or the spouse of a former member of the general assembly whose last day of service as a member of the general assembly is after July 31, 2007.

SECTION 13. IC 2-3.5-5-5 IS REPEALED [EFFECTIVE JANUARY 1, 2009].

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SENATE MOTION

Madam President: I move that Senator Rogers be added as second author, Senator Long be added as third author, and Senator Young R be added as coauthor of Senate Bill 401.

DILLON

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 401, 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 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 2-3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** The annual salary of the members of the general assembly shall be **the following:**

(1) Before 2009, eleven thousand six hundred dollars ($11,600).

(2) In 2009 and thereafter, an amount equal to eighteen percent (18%) of the annual salary of a judge under IC 33-38-5-6, as adjusted under IC 33-38-5-8.1.

(b) One-half (1/2) the annual salary shall be paid on the fifteenth day of January, and one-half (1/2) the annual salary shall be paid on the fifteenth day of February.

SECTION 2. IC 2-3.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The defined contribution fund consists of the following:

(1) Each participant's contributions to the fund.

(2) Contributions made to the fund on behalf of the participants under:

(A) section 5 of this chapter **(before its repeal on January 1, 2009); or**

(B) after December 31, 2008, section 5.5 of this chapter.

(3) Amounts transferred to the fund under subsections (b) and (c).

(4) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.

(5) All earnings on investments or on deposits of the funds.

(6) All contributions or payments to the fund made in a manner provided by the general assembly.

(b) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has

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been before that date a member of PERF, any amount in the PERF annuity savings account credited to the participant may at the participant's irrevocable option be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in PERF, may such a transfer be made.

(c) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of TRF, the amount in the TRF annuity savings account credited to the participant may at the participant's irrevocable election be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in TRF, may the transfer be made.

(d) Each participant shall be credited individually with:

(1) the participant's contributions to the fund under section 4 of this chapter, which shall be credited to the participant's account;

(2) the contributions made to the fund on behalf of the participant under:

(A) section 5 of this chapter **(before its repeal on January 1, 2009); or**

(B) after December 31, 2008, section 5.5 of this chapter;

which shall be credited to the participant's account;

(3) the amount transferred to the fund under subsections (b) and (c), which shall be credited to the participant's account; and

(4) the net earnings on the participant's accounts, determined under section 3 of this chapter.

SECTION 3. IC 2-3.5-5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. (a) This section applies to contributions to the defined contribution fund made by the state after December 31, 2008.**

(b) This subsection applies after December 31, 2008. Notwithstanding IC 2-3.5-2-10, as used in this section, "salary" means the total of the following amounts paid to a participant by the state for performing legislative services in the year in which the amounts are paid, determined without regard to any salary reduction agreement established under Section 125 or Section 457 of the Internal Revenue Code:

(1) Salary.

(2) Business per diem allowance and allowances paid in lieu of the submission of claims for reimbursement (but excluding

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any allowances paid for mileage).

(3) Allowances paid to officers of the house of representatives and the senate.

(c) This subsection applies after December 31, 2008. The state shall make a contribution to the defined contribution fund on behalf of each participant on June 30 of each year. The amount of the contribution is determined by multiplying the participant's salary for that year by a percentage determined for that year by the PERF board under subsection (d).

(d) This subsection applies after December 31, 2008. The PERF board shall use the following rates in determining the percentage described in subsection (c):

(1) The rate of the state's normal contribution for its employees to PERF, as determined under IC 5-10.2-2-11.

(2) The rate at which the state makes contributions to annuity savings accounts on behalf of state employees who are members of PERF, as specified in IC 5-10.2-3-2 and IC 5-10.3-7-9.

(e) This subsection applies after December 31, 2008. The budget agency shall confirm the percentage determined by the PERF board. The percentage confirmed by the budget agency may not exceed the total contribution rate paid that year by the state to PERF for state employees.

SECTION 4. IC 2-3.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For purposes of this chapter, there is appropriated for each biennium the following sums of money:

(1) From the state general fund, the amount required to equal the contributions specified in:

(A) section 5 of this chapter **(before its repeal on January 1, 2009); or**

(B) after December 31, 2008, section 5.5 of this chapter.

(2) From the state general fund, the amount required for administration of this chapter.

(b) The biennial appropriation provided in this section shall be credited to the defined contribution fund annually in the month of July of each year of the biennium, based on the amounts specified in subsection (a).".

Page 2, delete lines 1 through 18.

Page 6, after line 7, begin a new paragraph and insert:

"SECTION 12. IC 5-10-8-8, AS AMENDED BY P.L.178-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 8. (a) This section applies only to the state and employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) who:

(A) for an employee who retires before January 1, 2007, will have completed:

(i) twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(ii) at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date; or

(B) for an employee who retires after December 31, 2006, will have completed fifteen (15) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement.

(c) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

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(d) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired participant under the prosecuting attorneys retirement fund;

(2) whose retirement date is after January 1, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

(e) The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member, if the former member:

(1) is no longer a member of the general assembly;

(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) has at least ten (10) years of service credit as a member in the general assembly.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

(f) The group health insurance program required under subsections (b) through (e) and subsection (k) must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the employer's and the employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. ~~However,~~ **Except as provided in subsection (l),** the employer may elect to pay any part of the retired employee's premium with respect to insurance coverage under this chapter.

(g) Except as provided in subsection (j), a retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse

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covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-28-10-2(b). An employee who is on leave without pay is entitled to participate for ninety (90) days in any health insurance program maintained by the employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance.

(i) An employer may provide group health insurance for retired employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h).

(j) An employer may elect to permit former employees and their spouses, including surviving spouses, to continue to participate in a group health insurance program under this chapter after the former employee (who is otherwise qualified under this chapter to participate in a group insurance program) or spouse has become eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. An employer who makes an election under this section may require a person who continues coverage under this subsection to participate in a retiree health benefit plan developed under section 8.3 of this chapter.

(k) The state shall provide a group health insurance program to each retired employee:

(1) who was employed as a teacher in a state institution under:

(A) IC 11-10-5;

(B) IC 12-24-3;

(C) IC 16-33-3;

(D) IC 16-33-4;

(E) IC 20-21-2-1; or

(F) IC 20-22-2-1;

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(2) who is at least fifty-five (55) years of age on or before the employee's retirement date;
(3) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
(4) who:
(A) has at least fifteen (15) years of service credit as a participant in the retirement fund of which the employee is a member on or before the employee's retirement date; or
(B) completes at least ten (10) years of service credit as a participant in the retirement fund of which the employee is a member immediately before the employee's retirement.

(l) The president pro tempore of the senate and the speaker of the house of representatives may not elect to pay any part of the premium for insurance coverage under this chapter for a former member of the general assembly or the spouse of a former member of the general assembly whose last day of service as a member of the general assembly is after July 31, 2007.

SECTION 13. IC 2-3.5-5-5 IS REPEALED [EFFECTIVE JANUARY 1, 2009].".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 401 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 12, Nays 0.

C o p y