January 17, 2008

SENATE BILL No. 250

DIGEST OF SB 250 (Updated January 16, 2008 11:24 am - DI 71)

Citations Affected: IC 10-17; IC 16-19; noncode.

Synopsis: Indiana Veterans' Home. Transfers responsibility for the Indiana Veterans' Home from the state health commissioner to the department of veterans' affairs. Makes conforming amendments and removes obsolete references.

Effective: July 1, 2008.

Wyss, Rogers, Hershman, Alting, Paul, Landske, Meeks, Kruse, Charbonneau, Merritt, Becker, Boots, Lewis, Delph, Simpson, Breaux

January 10, 2008, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.
January 16, 2008, amended, reported favorably — Do Pass.

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January 17, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 250

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

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

SECTION 1. IC 10-17-9-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.3. As used in this chapter, "director" refers to the director of veterans' affairs appointed under IC 10-17-1-5.**

SECTION 2. IC 10-17-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008] **Sec. 0.5. As used in this chapter, "home" refers to the Indiana Veterans' Home.**

SECTION 3. IC 10-17-9-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.8. As used in this chapter, "superintendent" refers to the superintendent of the Indiana Veterans' Home appointed under section 3.5 of this chapter.**

SECTION 4. IC 10-17-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The conduct and maintenance of the Indiana Veterans' Home, located near Lafayette in Tippecanoe County, Indiana, are governed by this chapter. ~~and~~

~~IC 16-19-6.~~

SECTION 5. IC 10-17-9-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) The director shall appoint the superintendent of the Indiana Veterans' Home. In appointing the superintendent, the director shall give preference to an honorably discharged veteran of the armed forces of the United States.**

(b) The superintendent may be removed only by the director.

(c) The superintendent is administratively responsible to the director.

(d) The director shall determine the superintendent's salary, subject to the approval of the governor and the budget agency.

SECTION 6. IC 10-17-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The superintendent of the Indiana Veterans' Home: ~~subject to applicable orders and rules made by the administrative unit for special institutions of the state department of health.~~

(1) has the immediate charge and management of the institution;

(2) directs and controls the resident employees; and

(3) superintends the **medical and physical** care, **rehabilitation,** and management of the members in the home.

SECTION 7. IC 10-17-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a)~~ **The superintendent may not appoint or employ** a person ~~may not be appointed or employed~~ in an office or a place in the ~~institution by the superintendent of the~~ Indiana Veterans' Home because of the political views or affiliation of the appointee or employee or for a reason other than capacity and fitness for the duties to be performed by the appointee or employee. However, among applicants for appointment found capable and fit, preference shall be given to an honorably discharged military veteran and the spouse, widow, widower, mother, and child of an honorably discharged military veteran.

~~(b) In appointing a candidate for the position of superintendent of the Indiana Veterans' Home, the state health commissioner shall give preference to a person who has been honorably discharged after service in the armed forces of the United States.~~

SECTION 8. IC 10-17-9-7, AS AMENDED BY P.L.99-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who have a disability or are destitute are eligible for admission to the home:

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(1) An honorably discharged member of the armed forces who has served with the United States in any of its wars.

(2) An honorably discharged member of the armed forces who has served in an authorized campaign of the United States and who has a service connected disability, as evidenced by a pension certificate or the award of compensation.

(3) The spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(4) The surviving spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(b) The ~~administrative head of the administrative unit for special institutions of the state department of health or its successor~~ **department of veterans' affairs** shall adopt rules concerning admission to the home.

(c) In adopting rules governing the admission, maintenance, and discharge of members of the ~~veterans'~~ home, the ~~administrative head of the administrative unit for special institutions of the state department of health or its successor~~ **department of veterans' affairs** may establish a fund called the veterans' home comfort and welfare fund. The ~~administrative head~~ **director** shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The ~~administrative head~~ **director** shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.

(d) A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the Indiana Veterans' Home.

(e) Preference under this section may be given to a person who served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5) years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.

SECTION 9. IC 10-17-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The billing and

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collection of the maintenance cost of a member under section 8 of this chapter shall be made by the superintendent of the Indiana Veterans' Home based on the per capita cost for the preceding fiscal year.

(b) All money collected shall be deposited in the veterans' home comfort and welfare fund. The fund shall be used in part by the ~~state health commissioner~~ **superintendent** for the comfort and welfare of the members and in part to reimburse the state general fund in an amount specified by the general assembly.

(c) Excess money in the veterans' home comfort and welfare fund shall be placed in the veterans' home building fund.

(d) The fund shall be used for new construction, maintenance, remodeling, and repair of the buildings at the Indiana Veterans' Home.

SECTION 10. IC 10-17-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The superintendent of the Indiana Veterans' Home, with the approval of the ~~state health commissioner,~~ **director,** may accept payment at a lesser rate than prescribed in section 8 of this chapter. The superintendent of the Indiana Veterans' Home, in determining whether or not to accept the lesser amount, shall consider the amount of money necessary to maintain or support a dependent of the member. An agreement to accept a lesser amount is subject to cancellation or modification at any time by the superintendent of the Indiana Veterans' Home with the approval of the ~~state health commissioner.~~ **director.**

(b) A member who is issued a statement of a sum due as maintenance charges may petition the superintendent of the Indiana Veterans' Home for a release from or modification of the statement. The superintendent shall submit a written statement of the facts to the ~~state health commissioner~~ **director** for a final determination.

SECTION 11. IC 10-17-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The superintendent of the Indiana Veterans' Home, with the approval of the ~~state health commissioner,~~ **director,** may adopt a standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home. A member shall receive at least thirty dollars ($30) per month for personal needs before a maintenance charge is levied against current income.

(b) The monthly maintenance charge may not exceed one-twelfth (1/12) of the annual per capita cost of the preceding year.

(c) The superintendent may adjust the standard for determining the lesser rate to provide that in the case of married members with the spouses residing at the home this standard will allow at least forty dollars ($40) to be deducted from income by the member before the

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charge for maintenance is applied.

(d) The superintendent, in adopting the standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home, shall take into account as current income:

(1) a pension;

(2) compensation or income from any source; and

(3) benefits from:

(A) the federal Social Security Administration;

(B) the railroad retirement law; or

(C) a retirement annuity or insurance annuity.

(e) The agreement to accept a lesser rate from current income does not relieve the estate of the member of the charge for the full per capita cost for the period the member resided in the home. However, the claim for the full per capita cost will not be filed or allowed if there is a surviving spouse, dependent child less than eighteen (18) years of age, or dependent parent.

SECTION 12. IC 10-17-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) If space is available, the superintendent of the Indiana Veterans' Home, with the approval of the ~~state health commissioner,~~ **director,** may accept a veteran who is:

(1) otherwise eligible for admission to the home;

(2) in need of nursing home care; and

(3) transferred at the request of the United States Department of Veterans' Affairs from one (1) of its facilities.

(b) The United States Department of Veterans' Affairs under United States Department of Veterans' Affair's regulations shall award the cost of care to the home. A rate of charge described in section 8 of this chapter may not be used to determine the cost of care under this section.

SECTION 13. IC 10-17-9-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. IC 4-13-2 applies to the Indiana Veterans' Home.**

SECTION 14. IC 10-17-9-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18. (a) The superintendent shall furnish an individual public official bond in an amount determined by the director, payable to the state and conditioned upon the faithful performance of the superintendent's duties.**

(b) A bond required under this section is subject to the approval

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of the insurance commissioner and shall be filed in the office of the secretary of state.

SECTION 15. IC 10-17-9-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) The Indiana Veterans' Home shall post a notice that a resident, the legal representative of a resident, or another individual designated by a resident may request, from the individual in charge of each shift, information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:**

(1) wing of;

(2) unit of; and

(3) other area as routinely designated by;

the Indiana Veterans' Home.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent; and

(B) toll free telephone number for filing complaints with the department of veterans' affairs.

(4) State that if a resident, the legal representative of a resident, or another individual designated by a resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:

(A) Contact the superintendent.

(B) File a complaint with the department of veterans' affairs using the department's toll free telephone number.

(c) The department of veterans' affairs may adopt rules under IC 4-22-2 to carry out this section.

SECTION 16. IC 10-17-9-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20. (a) The Indiana Veterans' Home advisory committee is established.**

(b) The advisory committee consists of eight (8) members appointed by the governor and must include the following:

(1) One (1) member who is a licensed physician.

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(2) One (1) member who is a member of the general assembly from the district in which the Indiana Veterans' Home is located.

(3) The director of veterans' affairs or the director's designee.

(c) The term of a member, other than a member who is a member of the general assembly, is four (4) years. A member of the general assembly appointed under this section serves until the end of the member's current legislative term. The governor may remove a member of the advisory committee for cause. The governor shall fill a vacancy in the membership of an advisory committee for the unexpired term of the vacating member.

(d) The advisory committee shall hold at least one (1) regular meeting in each calendar quarter and may hold special meetings upon the call of the superintendent.

(e) The members of the advisory committee shall elect a chairperson and a secretary.

(f) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the advisory committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the advisory committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(i) The advisory committee shall act in an advisory capacity to the superintendent and to the director concerning ways to improve the Indiana Veterans' Home and the care of its residents.

SECTION 17. IC 16-19-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The state health commissioner has complete administrative control and responsibility

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for the ~~following special institutions: (1) Silvercrest Children's Development Center. (2)~~ Indiana Soldiers' and Sailors' Children's Home.

~~(3) Indiana Veterans' Home.~~

SECTION 18. IC 16-19-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) There is created an advisory committee for ~~each special institution designated in section~~ **the Indiana Soldiers' and Sailors' Children's Home.** ~~5 of this chapter.~~

(b) The **eight (8)** members of the ~~following~~ advisory ~~committees~~ **committee** shall be appointed by the governor as follows:

~~(1) The Silvercrest Children's Development Center advisory committee consists of seven (7) members, one (1) of whom must be a licensed physician and one (1) of whom must be a state legislator from the district in which the center is located.~~

~~(2) The Indiana Soldiers' and Sailors' Children's Home advisory committee consists of eight (8) members, one (1) of whom must be a licensed physician, one (1) of whom must be a state legislator from the district in which the home is located, and one (1) of whom is the director of veterans' affairs or the director's designee.~~

~~(3) The Indiana Veterans' Home advisory committee consists of eight (8) members, one (1) of whom must be a licensed physician, one (1) of whom must be a state legislator from the district in which the home is located, and one (1) of whom is the director of veterans' affairs or the director's designee.~~

(1) One (1) must be a licensed physician.

(2) One (1) must be a state legislator from the district in which the home is located.

(3) One (1) must be the director of veterans' affairs or the director's designee.

(c) Except for a member who is a state legislator, the term of the members is four (4) years. A state legislator appointed under this section serves until the end of the legislator's current legislative term. A member of ~~an~~ **the** advisory committee may be removed by the governor for cause, and a vacancy in the membership of ~~an~~ **the** advisory committee shall be filled by the governor for the unexpired term of the vacating member.

(d) The advisory committee shall hold at least one (1) regular meeting in each quarter of the calendar year and may hold special meetings considered necessary and expedient by the superintendent of ~~each advisory committee's respective institutions.~~ **the institution.**

(e) At the first meeting of ~~an~~ **the** advisory committee, which shall

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be called by the superintendent within ten (10) days after the appointment of the advisory committee members, and annually within the same time thereafter, the advisory committee shall meet and organize by electing a chairman and a secretary from the membership of the committee.

(f) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the advisory committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the advisory committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(i) The advisory committees shall act in an advisory capacity to the ~~superintendents of each advisory committee's respective institutions~~ **superintendent of the institution** and to the state health commissioner in the state health commissioner's capacity as administrative head of the administrative unit for **the** special ~~institutions~~ **institution** concerning ways and means of improving the special ~~institutions~~ **institution** and the care of the residents in the special ~~institutions.~~ **institution.**

(j) ~~Each~~ **The** advisory committee shall select one (1) of its members to serve as a member of the commission for special institutions. The name of the person selected shall be submitted to the governor and to the commission for special institutions.

(k) Whenever the term of ~~any~~ **a** member selected by ~~an~~ **the** advisory committee to serve on the commission for special institutions expires or a vacancy occurs for any reason, the advisory committee shall select a member of the committee to fill the vacancy. The name of that person shall be submitted to the governor and to the administrative unit for special institutions.

SECTION 19. [EFFECTIVE JULY 1, 2008] **(a) The powers and**

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duties of the state department of health relating to the Indiana Veterans' Home are transferred to the department of veterans' affairs on July 1, 2008.

(b) The rules adopted before July 1, 2008, by the state department of health concerning the Indiana Veterans' Home are considered, after June 30, 2008, rules of the department of veterans' affairs until the department of veterans' affairs adopts replacement rules.

(c) On July 1, 2008, the department of veterans' affairs becomes the owner of all property and obligations of the state department of health relating to the Indiana Veterans' Home. Any amounts owed to the state department of health before July 1, 2008, under an institution or a program administered after June 30, 2008, by the department of veterans' affairs are payable to the department of veterans' affairs.

(d) Any appropriations to the state department of health relating to the Indiana Veterans' Home and any funds relating to the Indiana Veterans' Home, including the veterans' home comfort and welfare fund and the veterans' home building fund, under the control and supervision of the state department of health on June 30, 2008, are transferred to the control or supervision of the department of veterans' affairs on July 1, 2008.

(e) The legislative services agency shall prepare legislation for introduction in the 2009 regular session of the general assembly to organize and correct statutes affected by the transfer of powers and duties to the department of veterans' affairs by this act.

(f) This SECTION expires January 1, 2009.

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SENATE MOTION

Madam President: I move that Senators Hershman, Alting, Paul, Landske and Meeks be added as coauthors of Senate Bill 250.

WYSS

SENATE MOTION

Madam President: I move that Senators Kruse, Charbonneau, Merritt, Becker, Boots, Lewis, Delph, Simpson and Breaux be added as coauthors of Senate Bill 250.

WYSS

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 250, 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 8, line 1, strike "following special institutions:"

Page 8, strike line 2.

Page 8, line 3, strike "(2)".

Page 8, run in lines 1 through 3.

Page 8, line 7, strike "each special institution designated in section" and insert "**the Indiana Soldiers' and Sailors' Children's Home.**".

Page 8, strike line 8.

Page 8, line 9, after "The" insert "**eight (8)**".

Page 8, line 9, strike "following".

Page 8, line 9, strike "committees" and insert "**committee**".

Page 8, strike lines 11 through 19.

Page 8, between lines 24 and 25, begin a new line block indented and insert:

"**(1) One (1) must be a licensed physician.**

(2) One (1) must be a state legislator from the district in which the home is located.

(3) One (1) must be the director of veterans' affairs or the director's designee.".

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Page 8, line 28, strike "an" and insert "**the**".

Page 8, line 29, strike "an" and insert "**the**".

Page 8, line 35, strike "each advisory committee's respective institutions." and insert "**the institution.**".

Page 8, line 36, strike "an" and insert "**the**".

Page 9, line 18, strike "superintendents of each advisory committee's respective institutions" and insert "**superintendent of the institution**".

Page 9, line 20, after "for" insert "**the**".

Page 9, line 21, strike "institutions" and insert "**institution**".

Page 9, line 22, before "and" strike "institutions" and insert "**institution**".

Page 9, line 22, after "special" strike "institutions." and insert "**institution.**".

Page 9, line 23, strike "Each" and insert "**The**".

Page 9, line 27, strike "any" and insert "**a**".

Page 9, line 27, strike "an" and insert "**the**".

and when so amended that said bill do pass.

(Reference is to SB 250 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 11, Nays 0.

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