February 18, 2011

HOUSE BILL No. 1260

DIGEST OF HB 1260 (Updated February 16, 2011 6:37 pm - DI 92)

Citations Affected: IC 20-26.

Synopsis: School corporation health insurance. Specifies certain requirements and recommendations for school corporation employee health coverage programs.

Effective: July 1, 2011.

Dermody, Turner, Goodin, Porter

January 12, 2011, read first time and referred to Committee on Education.
February 8, 2011, amended, reported — Do Pass. Recommitted to Committee on Ways and Means pursuant to Rule 127.
February 17, 2011, amended, reported — Do Pass.

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February 18, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1260

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

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

SECTION 1. IC 20-26-5-4, AS AMENDED BY P.L.182-2009(ss), SECTION 316, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.

(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars ($3,000) per budget year or one dollar ($1) per pupil, not to exceed twelve thousand five hundred dollars ($12,500), based on the school corporation's previous year's ADM, to promote the best

interests of the school corporation through:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(4) To:

(A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate improvements, as the governing body considers necessary for school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 20-47-2, IC 20-47-3, or IC 20-47-5.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for conservation measures through utility efficiency programs or under a guaranteed savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where the contract, security, retention, or note is permitted

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by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts specified under the powers authorized under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7, to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children who are at least five (5) years of age and less than fifteen (15) years of age that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To:

(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings

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and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons described in this subdivision.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers are subject to and governed by laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval so that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to reimburse the employee or the member the employee's or member's reasonable lodging and meal expenses and necessary transportation expenses. To pay teaching personnel

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for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without regard to the distance the children live from the school. The transportation must be otherwise in accordance with applicable law.

(11) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks, to furnish textbooks without cost or to rent textbooks to students, to participate in a textbook aid program, all in accordance with applicable law.

(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-48-1.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false imprisonment, false arrest, libel, or slander for acts committed in

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the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. **In accordance with IC 20-26-17,** to:

(A) participate in a state employee health plan under IC 5-10-8-6.6 or IC 5-10-8-6.7;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state, the federal government, or from any other source.

(17) To defend a member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures:

(A) for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body; and

(B) that may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 or any other law.

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(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 by specific language or by reference to other law.

SECTION 2. IC 20-26-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 17. School Corporation Employee Health Coverage

Sec. 1. As used in this chapter, "cost of coverage" includes any deposit to a health savings account that is related to a high deductible health plan.

Sec. 2. As used in this chapter, "health plan" refers to any of the following:

(1) A hospital or medical expense incurred policy or certificate.

(2) A hospital or medical service plan contract.

(3) A health maintenance organization subscriber contract.

(4) A self-funded employer plan that provides coverage for health care services.

The term includes a high deductible health plan with a related health savings account.

Sec. 3. The employer share of the cost of coverage under a health plan provided by a school corporation for the school corporation's employees may not exceed by more than twelve percent (12%) the employer share of the cost of coverage under the same type of health plan:

(1) described in IC 5-10-8-7(b) or IC 5-10-8-7(c); and

(2) provided by the state for state employees;

for any twelve (12) month period beginning on the first health plan issue or renewal date that occurs after January 31, 2012.

Sec. 4. If a school corporation for any twelve (12) month period beginning on the first health plan issue or renewal date that occurs after January 31, 2012, spends in excess of the amount specified in section 3 of this chapter, the school corporation shall do the

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following:

(1) Not more than forty-five (45) days after the renewal date on which the school corporation is determined to be noncompliant with section 3 of this chapter, submit to the state department of personnel a plan to achieve compliance. The plan may include health plan benefit changes and implementation of best practices described in section 6 of this chapter.

(2) Twelve (12) months after the date a plan is submitted under subdivision (1), certify to the state department of personnel the school corporation's compliance with section 3 of this chapter.

(3) If the school corporation fails to file the certification described in subdivision (2), beginning on the first renewal or expiration date of the school corporation's health plan after the twelve (12) month period described in subdivision (2) expires, elect to participate in the state employee health plan as provided in IC 5-10-8-6.7 to provide any school corporation employee health coverage.

Sec. 5. The following apply with respect to a school corporation's employee health coverage program:

(1) If the school corporation pays a commission, a bonus, an override, a contingency fee, or any other compensation to an insurance producer or other adviser in connection with the health coverage, the school corporation shall:

(A) specify the commission, bonus, override, contingency fee, or other compensation in the school corporation's annual budget fixed under IC 6-1.1-17; and

(B) make the information specified under clause (A) available to the public upon request.

(2) The school corporation shall perform triennial audits to ensure that covered dependents of school corporation employees are entitled to coverage under the school corporation's employee health coverage program.

(3) The school corporation may allow:

(A) members of the school corporation's governing body; or

(B) an attorney of the school corporation's governing body;

to be covered under the school corporation's employee health coverage program.

(4) All individuals insured under the school corporation's

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employee health coverage program:

(A) are eligible for the same coverage as all other individuals insured under the program; and

(B) shall pay the same amount for the coverage;

regardless of health status or other differentiating factors. However, the amount paid under clause (B) may be increased for a noncertificated employee.

Sec. 6. A school corporation may consider the following best practices with respect to the school corporation's employee health coverage program:

(1) Obtaining more than one (1) estimate for the coverage, including use of health care service discounts and medical management, to obtain the most cost savings in the program.

(2) Requiring employer contributions of at least sixty percent (60%) and not more than ninety percent (90%) of the cost of the coverage.

(3) Offering at least one (1) of each of the following, in accordance with the requirements of the Internal Revenue Code, as an option for the school corporation's employees:

(A) A high deductible health plan with a health savings account.

(B) A health reimbursement arrangement.

(4) Offering wellness programs to the school corporation's employees.

(5) Joining a consortium or trust of school corporations to provide school corporation employee health coverage to all school corporation employees.

(6) Providing medical clinics on the property of the school corporation for individuals insured under the school corporation employee health coverage program.

(7) If the school corporation provides health coverage for less than one hundred (100) school corporation employees:

(A) joining a consortium or trust of school corporations; or

(B) electing to participate in the state employee health plan as provided in IC 5-10-8-6.7;

to provide health coverage.

Sec. 7. A consortium or trust of school corporations referred to in this chapter shall accept any school corporation for participation in the consortium or trust if the school corporation agrees to participate in the consortium's or trust's best practice requirements.

Sec. 8. (a) This chapter does not require a school corporation

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employee to participate in a school corporation's employee health coverage program.

(b) With respect to a collective bargaining agreement that is in effect on July 1, 2011, this chapter does not:

(1) give a party to the collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before July 1, 2011; or

(2) annul, modify, or limit the collective bargaining agreement.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1260, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 17, after "1." insert "**As used in this chapter, "cost of coverage" includes any deposit to a health savings account that is related to a high deductible health plan.**

Sec. 2.".

Page 7, line 27, delete "2. (a) If the" and insert "**3. The**".

Page 7, line 29, delete "exceeds" and insert "**may not exceed**".

Page 7, line 35, delete "2012, the school" and insert "**2012.**".

Page 7, delete lines 36 through 42.

Page 8, delete line 1.

Page 8, line 2, delete "3." and insert "**4.**".

Page 8, line 5, delete "2(a)" and insert "**3**".

Page 8, line 6, delete "shall:" and insert "**shall, beginning on the first renewal or expiration date of the**".

Page 8, delete lines 7 through 12.

Page 8, run in lines 6 through 13.

Page 8, delete lines 17 through 35.

Page 8, line 36, delete "6." and insert "**5.**".

Page 8, delete lines 38 through 42.

Page 9, delete lines 1 through 2.

Page 9, line 3, delete "(2)" and insert "**(1)**".

Page 9, line 3, after "commission" insert "**, a bonus, an override, a contingency fee, or any other compensation**".

Page 9, delete lines 6 through 13, begin a new line double block indented and insert:

> "**(A) specify the commission, bonus, override, contingency fee, or other compensation in the school corporation's annual budget fixed under IC 6-1.1-17; and**
>
> **(B) make the information specified under clause (A) available to the public upon request.**".

Page 9, line 14, delete "(3)" and insert "**(2)**".

Page 9, delete lines 18 through 20, begin a new line block indented and insert:

> "**(3) The school corporation may allow:**
>
> **(A) members of the school corporation's governing body; or**
>
> **(B) an attorney of the school corporation's governing body;**

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to be covered under the school corporation's employee health coverage program.".

Page 9, line 21, delete "(5)" and insert "**(4)**".

Page 9, line 26, after "." insert "**However, the amount paid under clause (B) may be increased for a noncertificated employee.**".

Page 9, line 27, delete "7." and insert "**6.**".

Page 9, line 33, delete "employee" and insert "**employer**".

Page 10, between lines 7 and 8, begin a new line block indented and insert:

"**(7) If the school corporation provides health coverage for less than one hundred (100) school corporation employees:**

(A) joining a consortium or trust of school corporations; or

(B) electing to participate in the state employee health plan as provided in IC 5-10-8-6.7;

to provide health coverage.".

Page 10, line 8, delete "8." and insert "**7.**".

Page 10, line 13, delete "9." and insert "**8.**".

and when so amended that said bill do pass.

(Reference is to HB 1260 as introduced.)

BEHNING, Chair

Committee Vote: yeas 9, nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1260, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 32, delete "ten" and insert "**twelve**".

Page 7, line 33, delete "(10%)" and insert "**(12%)**".

Page 7, line 38, delete "February 1," and insert "**January 31,**".

Page 7, line 39, delete "twenty-four (24)" and insert "**twelve (12)**".

Page 7, line 41, delete "February 1," and insert "**January 31,**".

Page 7, line 42, delete "shall,".

Page 8, delete lines 1 through 2.

Page 8, line 3, delete "expires," and insert "**shall do the following:**

(1) Not more than forty-five (45) days after the renewal date on which the school corporation is determined to be noncompliant with section 3 of this chapter, submit to the

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state department of personnel a plan to achieve compliance. The plan may include health plan benefit changes and implementation of best practices described in section 6 of this chapter.

(2) Twelve (12) months after the date a plan is submitted under subdivision (1), certify to the state department of personnel the school corporation's compliance with section 3 of this chapter.

(3) If the school corporation fails to file the certification described in subdivision (2), beginning on the first renewal or expiration date of the school corporation's health plan after the twelve (12) month period described in subdivision (2) expires,".

and when so amended that said bill do pass.

(Reference is to HB 1260 as printed February 8, 2011.)

ESPICH, Chair

Committee Vote: yeas 22, nays 0.

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