

SENATE BILL No. 219

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-4-4; IC 8-1-1; IC 8-23-2-2; IC 12-8-1-2; IC 13-13-2-1; IC 22-1-1-2; P.L.87-1985, SECTION 5.

Synopsis: Evaluation of appointments of major agency heads. Establishes the joint committee on appointment of major agency heads consisting of eight members of the general assembly. Defines "major agency appointment" as the governor's appointment of: (1) a member of the Indiana utility regulatory commission; (2) the commissioner of the Indiana department of transportation; (3) the secretary of family and social services; (4) the director of the department of child services; (5) the commissioner of the Indiana department of environmental management; or (6) the commissioner of labor. Requires the committee to meet whenever its chair is notified by the governor of the governor's intent to make a major agency appointment to receive information and discuss the fitness and competence of the individual the governor intends to appoint. Requires the committee to report to the governor and the legislative council its findings regarding the appointee's fitness and competence. Provides that an individual appointed by the governor to a major agency appointment does not take office until 45 days after the governor notifies the chair of the committee of the appointment. Repeals the statute that establishes the utility regulatory commission nominating committee and a related noncode statute.

Effective: Upon passage.

Randolph

January 6, 2011, read first time and referred to Committee on Rules and Legislative Procedure.

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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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SENATE BILL No. 219



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

- 1 SECTION 1. IC 2-4-4 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 3 PASSAGE]:
- 4 **Chapter 4. Legislative Evaluation of Major Agency**
- 5 **Appointments**
- 6 **Sec. 1. As used in this chapter, "committee" refers to the joint**
- 7 **committee on appointment of major agency heads established by**
- 8 **section 7 of this chapter.**
- 9 **Sec. 2. As used in this chapter, "house" refers to the house of**
- 10 **representatives of the general assembly.**
- 11 **Sec. 3. As used in this chapter, "major agency appointment"**
- 12 **refers to the governor's appointment of any of the following:**
- 13 **(1) A member of the Indiana utility regulatory commission**
- 14 **appointed under IC 8-1-1-2.**
- 15 **(2) The commissioner of the Indiana department of**
- 16 **transportation appointed under IC 8-23-2-2.**
- 17 **(3) The secretary of family and social services appointed**



1 under IC 12-8-1-2.
2 (4) The director of child services appointed under
3 IC 31-25-1-1.
4 (5) The commissioner of the Indiana department of
5 environmental management appointed under IC 13-13-2-1.
6 (6) The commissioner of labor appointed under IC 22-1-1-2.
7 Sec. 4. As used in this chapter, "president pro tempore" refers
8 to the president pro tempore of the senate.
9 Sec. 5. As used in this chapter, "senate" refers to the senate of
10 the general assembly.
11 Sec. 6. As used in this chapter, "speaker" refers to the speaker
12 of the house of representatives.
13 Sec. 7. The joint committee on appointment of major agency
14 heads is established.
15 Sec. 8. (a) The committee consists of the following members:
16 (1) Four (4) members of the house appointed by the speaker
17 after consultation with the minority leader of the house. Not
18 more than two (2) members appointed under this section may
19 be members of the same political party.
20 (2) Four (4) members of the senate appointed by the president
21 pro tempore after consultation with the minority leader of the
22 senate. Not more than two (2) members appointed under this
23 section may be members of the same political party.
24 (b) A member appointed under subsection (a)(1) serves at the
25 pleasure of the speaker.
26 (c) A member appointed under subsection (a)(2) serves at the
27 pleasure of the president pro tempore.
28 Sec. 9. A vacancy on the committee shall be filled by:
29 (1) the speaker, after consultation with the minority leader of
30 the house, if the vacancy occurs in the house membership of
31 the committee; and
32 (2) the president pro tempore, after consultation with the
33 minority leader of the senate, if the vacancy occurs in the
34 senate membership of the committee.
35 Sec. 10. The chairman of the legislative council shall designate
36 one (1) of the members appointed under section 8 of this chapter
37 as the committee's chair.
38 Sec. 11. The legislative services agency shall provide staff
39 support to the committee.
40 Sec. 12. Each committee member is entitled to receive the same
41 per diem, mileage, and travel allowances paid to individuals who
42 serve as legislative members of interim study committees

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1 established by the legislative council.

2 **Sec. 13. The affirmative votes of at least five (5) committee**
3 **members are required for the committee to take action, other than**
4 **to receive information at a hearing.**

5 **Sec. 14. The committee shall operate under rules adopted by the**
6 **house and the senate.**

7 **Sec. 15. All funds necessary for the committee to carry out its**
8 **functions shall be paid from appropriations to the legislative**
9 **council and the legislative services agency.**

10 **Sec. 16. The committee shall submit all reports to the legislative**
11 **council as directed by the legislative council in an electronic format**
12 **under IC 5-14-6.**

13 **Sec. 17. All the committee's reports are public records.**

14 **Sec. 18. (a) This section applies even if the general assembly is**
15 **not in session.**

16 **(b) Not later than ten (10) business days after receiving the**
17 **governor's notice of intent to make a major agency appointment,**
18 **the committee's chair shall convene the committee to:**

- 19 **(1) receive information about; and**
- 20 **(2) discuss;**

21 **the fitness and competence of the individual the governor intends**
22 **to appoint. The committee shall otherwise meet at the call of the**
23 **chair.**

24 **(c) The committee shall make a report on:**

- 25 **(1) the information the committee received; and**
- 26 **(2) the committee's discussion;**

27 **regarding the fitness and competence of the individual the**
28 **governor intends to appoint. The report may include any**
29 **recommendations that the committee has regarding the**
30 **appointment.**

31 **(d) The committee shall deliver a copy of its report to the**
32 **governor and submit the report to the legislative council as**
33 **provided in section 16 of this chapter.**

34 **SECTION 2. IC 8-1-1-2 IS AMENDED TO READ AS FOLLOWS**
35 **[EFFECTIVE UPON PASSAGE]: Sec. 2. (a) There is created the**
36 **Indiana utility regulatory commission which shall consist of five (5)**
37 **members, at least one (1) of whom shall be an attorney qualified to**
38 **practice law before the supreme court of Indiana and not more than**
39 **three (3) of whom belong to the same political party.**

40 **(b) The governor shall appoint** the members of the commission
41 **and fill** all vacancies occurring ~~therein shall be appointed by the~~
42 **governor from among persons nominated by the nominating committee**

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1 in accordance with the provisions of IC 8-1-1.5: **on the commission.**
 2 **The individual appointed under this section does not take office**
 3 **until forty-five (45) days after the governor notifies the chair of the**
 4 **joint committee on appointment of major agency heads under**
 5 **IC 2-4-4 of the appointment.**

6 (c) The members may be removed at any time by the governor for
 7 cause.

8 (d) The governor shall appoint one (1) member as chairman.

9 (e) The members of the commission shall be appointed for a term of
 10 four (4) years, except when a member is appointed to fill a vacancy, in
 11 which case such appointment shall be for ~~such the remainder of the~~
 12 ~~unexpired term only. All members~~ **A member** of ~~said the~~ **commission**
 13 ~~shall serve as such serves~~ until ~~their successors are duly~~ **the member's**
 14 **successor is** appointed and qualified. ~~and while so serving A~~
 15 **commission member** shall devote full time to the duties of the
 16 commission and ~~shall may~~ not be actively engaged in any other
 17 occupation, profession, or business that constitutes a conflict of interest
 18 or otherwise interferes with carrying out ~~their the member's~~ **duties as**
 19 ~~commissioners: a commission member.~~

20 (f) A member of the commission or any person appointed to any
 21 position or employed in any capacity to serve the commission, may not
 22 have any official or professional relationship or connection with, or
 23 hold any stock or securities or have any pecuniary interest in any public
 24 utility operating in Indiana.

25 (g) ~~Each~~ **A** member appointed to the ~~Indiana utility regulatory~~
 26 ~~commission shall take and subscribe to an oath in writing that he the~~
 27 **member** will faithfully perform the duties of ~~his~~ **office**, and support
 28 and defend to the best of ~~his the member's~~ **ability** the Constitution and
 29 laws of the state of Indiana and of the United States of America. ~~and~~
 30 ~~such~~ **The member's** oath shall be filed with the secretary of state.

31 (h) The chairman of the commission shall assign cases to the
 32 various members of the commission or to administrative law judges for
 33 hearings.

34 SECTION 3. IC 8-23-2-2 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The governor shall
 36 appoint a commissioner who is responsible for organizing and
 37 administering the department.

38 (b) The commissioner:

39 (1) serves at the pleasure of the governor; and

40 (2) is entitled to receive compensation set by the budget agency.

41 (c) **The individual appointed as commissioner does not take**
 42 **office until forty-five (45) days after the governor notifies the chair**

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1 **of the joint committee on appointment of major agency heads**
2 **under IC 2-4-4 of the appointment.**

3 SECTION 4. IC 12-8-1-2 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The governor shall
5 appoint the secretary of family and social services to coordinate family
6 and social service programs among the divisions.

7 **(b) The individual appointed as secretary does not take office**
8 **until forty-five (45) days after the governor notifies the chair of the**
9 **joint committee on appointment of major agency heads under**
10 **IC 2-4-4 of the appointment.**

11 SECTION 5. IC 13-13-2-1 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The governor
13 shall appoint an individual with appropriate training and experience as
14 commissioner of the department. The commissioner:

15 (1) is the executive and chief administrative officer of the
16 department; and

17 (2) may delegate authority to appropriate department staff.

18 (b) The commissioner:

19 (1) serves at the governor's pleasure; and

20 (2) is entitled to receive compensation in an amount set by the
21 governor, subject to approval by the budget agency.

22 **(c) The individual appointed as commissioner does not take**
23 **office until forty-five (45) days after the governor notifies the chair**
24 **of the joint committee on appointment of major agency heads**
25 **under IC 2-4-4 of the appointment.**

26 SECTION 6. IC 22-1-1-2 IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commissioner of
28 labor shall be appointed by the governor for a term not to exceed four
29 (4) years and shall serve at the will of the governor and until ~~his~~ a
30 successor shall have been appointed and shall have qualified. Any
31 vacancy in the office of commissioner of labor shall be filled by
32 appointment by the governor for the unexpired term. **An individual**
33 **appointed as commissioner does not take office until forty-five (45)**
34 **days after the governor notifies the chair of the joint committee on**
35 **appointment of major agency heads under IC 2-4-4 of the**
36 **appointment.**

37 (b) The commissioner of labor ~~shall be~~ **is** the administrative and
38 executive officer of the department of labor. **The commissioner** shall:

39 (1) supervise and direct the work of the department; ~~shall~~

40 (2) have immediate charge of the administration and enforcement
41 of all the laws and rules that the department is required by law to
42 enforce and administer; ~~shall~~

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1 (3) have general charge of all inspections and investigations; and
 2 staff
 3 (4) perform such other duties as may be prescribed in this chapter.
 4 (c) The commissioner shall adopt and use an official seal for the
 5 authentication of the orders and records of the department.
 6 (d) Before entering upon the discharge of his official duties, the
 7 commissioner shall:
 8 (1) execute a bond, payable to the state in such amount and with
 9 such sureties as shall be approved by the governor, conditioned
 10 for the faithful discharge of his official duties; and
 11 (2) take and subscribe an oath, which shall be endorsed upon his
 12 the official bond.
 13 and The bond and oath when so executed shall be filed in the office of
 14 the secretary of state.
 15 (e) The commissioner is authorized and directed to classify and fix
 16 the minimum standards for the personnel of the department and to
 17 formulate salary schedules with the approval of the governor for the
 18 services so classified.
 19 SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE
 20 UPON PASSAGE]: IC 8-1-1.5; P.L.87-1985, SECTION 5.
 21 SECTION 8. **An emergency is declared for this act.**

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