

SENATE BILL No. 451

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-48; IC 3-8; IC 3-11-2-12; IC 4-2; IC 8-1.

Synopsis: Election of IURC commissioners. Provides for the election of the members of the Indiana utility regulatory commission at large, by all the voters of the state, beginning with the 2012 general election.

Effective: July 1, 2011.

Breaux

January 12, 2011, read first time and referred to Committee on Utilities & Technology.

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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. 451



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

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

- 1 SECTION 1. IC 3-5-2-48 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2011]: Sec. 48. "State office" refers to **the**
- 3 **following:**
- 4 (1) **The** governor.
- 5 (2) **The** lieutenant governor.
- 6 (3) **The** secretary of state.
- 7 (4) **The** auditor of state.
- 8 (5) **The** treasurer of state.
- 9 (6) **The** superintendent of public instruction.
- 10 (7) **The** attorney general.
- 11 (8) Justice of the supreme court.
- 12 (9) Judge of the court of appeals. ~~and~~
- 13 (10) Judge of the tax court.
- 14 (11) **Beginning in 2012, member of the Indiana utility**
- 15 **regulatory commission.**

16 SECTION 2. IC 3-8-1-10.7 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2011]: **Sec. 10.7. A candidate for the office of member of the**
2 **Indiana utility regulatory commission must have the qualifications**
3 **set forth in IC 8-1-1-2.1.**

4 SECTION 3. IC 3-8-1-33, AS AMENDED BY P.L.2-2005,
5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2011]: Sec. 33. (a) A candidate for an office listed in
7 subsection (b) must file a statement of economic interests.

8 (b) Whenever a candidate for any of the following offices is also
9 required to file a declaration of candidacy or is nominated by petition,
10 the candidate shall file a statement of economic interests before filing
11 the declaration of candidacy or declaration of intent to be a write-in
12 candidate, before the petition of nomination is filed, before the
13 certificate of nomination is filed, or before being appointed to fill a
14 candidate vacancy under IC 3-13-1 or IC 3-13-2:

15 (1) Governor, lieutenant governor, secretary of state, auditor of
16 state, treasurer of state, attorney general, **member of the Indiana**
17 **utility regulatory commission**, and state superintendent of
18 public instruction, in accordance with IC 4-2-6-8.

19 (2) Senator and representative in the general assembly, in
20 accordance with IC 2-2.1-3-2.

21 (3) Justice of the supreme court, judge of the court of appeals,
22 judge of the tax court, judge of a circuit court, judge of a superior
23 court, judge of a county court, judge of a probate court, and
24 prosecuting attorney, in accordance with IC 33-23-11-14 and
25 IC 33-23-11-15.

26 SECTION 4. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A political party shall conduct
28 a state convention to nominate the candidates of the political party for
29 the following offices to be voted on at the next general election:

- 30 (1) Lieutenant governor.
- 31 (2) Secretary of state.
- 32 (3) Auditor of state.
- 33 (4) Treasurer of state.
- 34 (5) Attorney general.
- 35 (6) Superintendent of public instruction.

36 **(7) Member of the Indiana utility regulatory commission.**

- 37 (b) The convention shall also:
 - 38 (1) nominate candidates for presidential electors and alternate
 - 39 electors; and
 - 40 (2) elect the delegates and alternate delegates to the national
 - 41 convention of the political party.

42 SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008,

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1 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2011]: Sec. 12. The following offices shall be placed on the
 3 general election ballot in the following order:
 4 (1) Federal and state offices:
 5 (A) President and Vice President of the United States.
 6 (B) United States Senator.
 7 (C) Governor and lieutenant governor.
 8 (D) Secretary of state.
 9 (E) Auditor of state.
 10 (F) Treasurer of state.
 11 (G) Attorney general.
 12 (H) Superintendent of public instruction.
 13 **(I) Member of the Indiana utility regulatory commission.**
 14 ~~(J)~~ **(J)** United States Representative.
 15 (2) Legislative offices:
 16 (A) State senator.
 17 (B) State representative.
 18 (3) Circuit offices and county judicial offices:
 19 (A) Judge of the circuit court, and unless otherwise specified
 20 under IC 33, with each division separate if there is more than
 21 one (1) judge of the circuit court.
 22 (B) Judge of the superior court, and unless otherwise specified
 23 under IC 33, with each division separate if there is more than
 24 one (1) judge of the superior court.
 25 (C) Judge of the probate court.
 26 (D) Judge of the county court, with each division separate, as
 27 required by IC 33-30-3-3.
 28 (E) Prosecuting attorney.
 29 (F) Clerk of the circuit court.
 30 (4) County offices:
 31 (A) County auditor.
 32 (B) County recorder.
 33 (C) County treasurer.
 34 (D) County sheriff.
 35 (E) County coroner.
 36 (F) County surveyor.
 37 (G) County assessor.
 38 (H) County commissioner.
 39 (I) County council member.
 40 (5) Township offices:
 41 (A) Township assessor (only in a township referred to in
 42 IC 36-6-5-1(d)).

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- 1 (B) Township trustee.
- 2 (C) Township board member.
- 3 (D) Judge of the small claims court.
- 4 (E) Constable of the small claims court.
- 5 (6) City offices:
- 6 (A) Mayor.
- 7 (B) Clerk or clerk-treasurer.
- 8 (C) Judge of the city court.
- 9 (D) City-county council member or common council member.
- 10 (7) Town offices:
- 11 (A) Clerk-treasurer.
- 12 (B) Judge of the town court.
- 13 (C) Town council member.

14 SECTION 6. IC 4-2-1-1.5, AS ADDED BY P.L.43-2007, SECTION
 15 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 16 2011]: Sec. 1.5. (a) Subject to subsection (b), the salary of the state
 17 elected officials other than the governor is as follows:

- 18 (1) For the lieutenant governor, seventy-six thousand dollars
- 19 (\$76,000) per year. However, the lieutenant governor is not
- 20 entitled to receive per diem allowance for performance of duties
- 21 as president of the senate.
- 22 (2) For the secretary of state, sixty-six thousand dollars (\$66,000)
- 23 per year.
- 24 (3) For the auditor of state, sixty-six thousand dollars (\$66,000)
- 25 per year.
- 26 (4) For the treasurer of state, sixty-six thousand dollars (\$66,000)
- 27 per year.
- 28 (5) For the attorney general, seventy-nine thousand four hundred
- 29 dollars (\$79,400) per year.
- 30 (6) For the state superintendent of public instruction, seventy-nine
- 31 thousand four hundred dollars (\$79,400) per year.
- 32 **(7) Beginning January 1, 2013, for a member of the Indiana**
- 33 **utility regulatory commission, one hundred five thousand**
- 34 **dollars (\$105,000) per year. The chairman of the commission**
- 35 **is entitled to an additional five thousand dollars (\$5,000) per**
- 36 **year.**
- 37 (b) Beginning January 1, 2008, the part of the total salary of a state
- 38 elected official is increased on January 1 of each year after a year in
- 39 which the general assembly does not amend this section to provide a
- 40 salary increase for the state elected official.
- 41 (c) The percentage by which salaries are increased under this
- 42 section is equal to the statewide average percentage, as determined by

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1 the budget director, by which the salaries of state employees in the
 2 executive branch who are in the same or a similar salary bracket
 3 exceed, for the current state fiscal year, the salaries of executive branch
 4 state employees in the same or a similar salary bracket that were in
 5 effect on January 1 of the immediately preceding year.

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

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

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

18 SECTION 7. IC 4-2-6-8, AS AMENDED BY P.L.89-2006,
 19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2011]: Sec. 8. (a) The following persons shall file a written
 21 financial disclosure statement:

22 (1) The governor, lieutenant governor, secretary of state, auditor
 23 of state, treasurer of state, attorney general, **member of the**
 24 **Indiana utility regulatory commission**, and state superintendent
 25 of public instruction.

26 (2) Any candidate for one (1) of the offices in subdivision (1) who
 27 is not the holder of one (1) of those offices.

28 (3) Any person who is the appointing authority of an agency.

29 (4) The director of each division of the department of
 30 administration.

31 (5) Any purchasing agent within the procurement division of the
 32 department of administration.

33 (6) Any agency employee, special state appointee, former agency
 34 employee, or former special state appointee with final purchasing
 35 authority.

36 (7) An employee required to do so by rule adopted by the
 37 inspector general.

38 (b) The statement shall be filed with the inspector general as
 39 follows:

40 (1) Not later than February 1 of every year, in the case of the state
 41 officers and employees enumerated in subsection (a).

42 (2) If the individual has not previously filed under subdivision (1)

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1 during the present calendar year and is filing as a candidate for a
2 state office listed in subsection (a)(1), before filing a declaration
3 of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of
4 nomination under IC 3-8-6, or declaration of intent to be a
5 write-in candidate under IC 3-8-2-2.5, or before a certificate of
6 nomination is filed under IC 3-8-7-8, in the case of a candidate for
7 one (1) of the state offices (unless the statement has already been
8 filed when required under IC 3-8-4-11).

9 (3) Not later than sixty (60) days after employment or taking
10 office, unless the previous employment or office required the
11 filing of a statement under this section.

12 (4) Not later than thirty (30) days after leaving employment or
13 office, unless the subsequent employment or office requires the
14 filing of a statement under this section.

15 The statement must be made under affirmation.

16 (c) The statement shall set forth the following information for the
17 preceding calendar year or, in the case of a state officer or employee
18 who leaves office or employment, the period since a previous statement
19 was filed:

20 (1) The name and address of any person known:
21 (A) to have a business relationship with the agency of the state
22 officer or employee or the office sought by the candidate; and
23 (B) from whom the state officer, candidate, or the employee,
24 or that individual's spouse or unemancipated children received
25 a gift or gifts having a total fair market value in excess of one
26 hundred dollars (\$100).

27 (2) The location of all real property in which the state officer,
28 candidate, or the employee or that individual's spouse or
29 unemancipated children has an equitable or legal interest either
30 amounting to five thousand dollars (\$5,000) or more or
31 comprising ten percent (10%) of the state officer's, candidate's, or
32 the employee's net worth or the net worth of that individual's
33 spouse or unemancipated children. An individual's primary
34 personal residence need not be listed, unless it also serves as
35 income property.

36 (3) The names and the nature of the business of the employers of
37 the state officer, candidate, or the employee and that individual's
38 spouse.

39 (4) The following information about any sole proprietorship
40 owned or professional practice operated by the state officer,
41 candidate, or the employee or that individual's spouse:

42 (A) The name of the sole proprietorship or professional

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- practice.
- (B) The nature of the business.
- (C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.
- (D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.
- (5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.
- (6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.
- (7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). However, if the stock is held in a blind trust, the name of the administrator of the trust must be disclosed on the statement instead of the name of the corporation. A time or demand deposit in a financial institution or insurance policy need not be listed.
- (8) The name and address of the most recent former employer.
- (9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

- (d) A person who:
 - (1) fails to file a statement required by rule or this section in a timely manner; or
 - (2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 8. IC 8-1-1-2 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) There is created the Indiana
 2 utility regulatory commission. ~~which shall consist~~ **The commission**
 3 **consists** of five (5) members.

4 (b) At least one (1) ~~of whom shall~~ **commission member must** be
 5 an attorney qualified to practice law before the supreme court of
 6 Indiana and not more than three (3) ~~of whom commission members~~
 7 **may** belong to the same political party. **This subsection expires**
 8 **January 1, 2013.**

9 (c) The ~~commission~~ **commission** members ~~of the commission~~ and all
 10 vacancies occurring ~~therein on the commission~~ shall be appointed by
 11 the governor from among persons nominated by the nominating
 12 committee in accordance with the provisions of IC 8-1-1.5. **This**
 13 **subsection expires January 1, 2013.**

14 (d) The members may be removed at any time by the governor
 15 for cause. **This subsection expires January 1, 2013.**

16 (e) ~~Before January 1, 2013,~~ the governor shall appoint one (1)
 17 member as chairman. **After December 31, 2012, the members shall**
 18 **elect the chairman not later than January 31 of each**
 19 **odd-numbered year. The chairman may be reelected to a new term.**

20 (f) The ~~commission~~ **commission** members ~~of the commission~~ shall be
 21 appointed for a term of four (4) years, except when a member is
 22 appointed to fill a vacancy, in which case such appointment shall be for
 23 such unexpired term only. All members of ~~said the~~ **the commission** shall
 24 serve as such until their successors are duly appointed and qualified.
 25 ~~and while so serving~~ **The term of office of a commission member**
 26 **appointed under this subsection expires January 1, 2013. Beginning**
 27 **with the general election of 2012, members of the commission shall**
 28 **be elected as provided in section 2.1 of this chapter. This subsection**
 29 **expires July 1, 2013.**

30 (g) **A commission member** shall devote full time to the duties of
 31 the commission and shall not be actively engaged in any other
 32 occupation, profession, or business that constitutes a conflict of interest
 33 or otherwise interferes with carrying out ~~their the member's~~ **the member's** duties. ~~as~~
 34 ~~commissioners.~~

35 (h) **A commission member of the commission** or any person
 36 appointed to any position or employed in any capacity to serve the
 37 commission, may not have any official or professional relationship or
 38 connection with, or hold any stock or securities or have any pecuniary
 39 interest in any public utility operating in Indiana.

40 (i) Each **commission member appointed to the Indiana utility**
 41 ~~regulatory commission~~ shall take and subscribe to an oath in writing
 42 that ~~he the member~~ **the member** will:

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- 1 (1) faithfully perform the duties of ~~his~~ office; and
- 2 (2) support and defend to the best of ~~his~~ **the member's** ability the
- 3 Constitution and laws of the state of Indiana and of the United
- 4 States of America. ~~and such~~
- 5 **Each member's** oath shall be filed with the secretary of state.
- 6 ~~(h)~~ (j) The chairman of the commission shall assign cases to the
- 7 various **commission** members ~~of the commission~~ or to administrative
- 8 law judges for hearings.
- 9 SECTION 9. IC 8-1-1-2.1 IS ADDED TO THE INDIANA CODE
- 10 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
- 11 1, 2011]: **Sec. 2.1. (a) Beginning with the general election in**
- 12 **November 2012, commission members shall be elected as provided**
- 13 **in this section.**
- 14 (b) **Candidates for election to be members of the commission**
- 15 **shall be nominated as provided in IC 3-8-4-2 or IC 3-8-6.**
- 16 (c) **A candidate for election to be a member of the commission:**
- 17 (1) **must have resided in Indiana for at least two (2) years**
- 18 **before the election; and**
- 19 (2) **may not have:**
- 20 (A) **an official or a professional relationship or connection**
- 21 **with; or**
- 22 (B) **hold any stock or securities or have a pecuniary**
- 23 **interest in;**
- 24 **a public utility operating in Indiana.**
- 25 (d) **The members of the commission shall be elected at large by**
- 26 **all the voters of the state. Each voter may vote for the number of**
- 27 **commission members to be elected at the election.**
- 28 (e) **The following candidates shall be elected at the election:**
- 29 (1) **If three (3) candidates are to be elected, the following**
- 30 **candidates are elected to the commission:**
- 31 (A) **The candidate who receives the greatest number of**
- 32 **votes.**
- 33 (B) **The candidate who receives the greatest number of**
- 34 **votes less than the candidate described in clause (A).**
- 35 (C) **The candidate who receives the greatest number of**
- 36 **votes less than the candidate described in clause (B).**
- 37 (2) **If two (2) candidates are to be elected, the following**
- 38 **candidates are elected to the commission:**
- 39 (A) **The candidate who receives the greatest number of**
- 40 **votes.**
- 41 (B) **The candidate who receives the greatest number of**
- 42 **votes less than the candidate described in clause (A).**

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1 (f) A candidate elected to the commission serves a term of four
2 (4) years, beginning January 1 after the date of the candidate's
3 election.

4 SECTION 10. IC 8-1-1-2.2 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2011]: Sec. 2.2. (a) This section applies to the election of
7 commission members at the November 2012 general election.

8 (b) Five (5) members of the commission shall be elected at the
9 election. The following candidates are elected:

10 (1) The candidate who receives the greatest number of votes.

11 (2) The candidate who receives the greatest number of votes
12 less than the candidate described in subdivision (1).

13 (3) The candidate who receives the greatest number of votes
14 less than the candidate described in subdivision (2).

15 (4) The candidate who receives the greatest number of votes
16 less than the candidate described in subdivision (3).

17 (5) The candidate who receives the greatest number of votes
18 less than the candidate described in subdivision (4).

19 (c) Notwithstanding section 2.1 of this chapter, the terms of the
20 candidates are as follows:

21 (1) The candidates described in subsection (b)(1) through
22 (b)(3) each serve a term of four (4) years, beginning January
23 1, 2013.

24 (2) The candidates described in subsection (b)(4) through
25 (b)(5) each serve a term of two (2) years, beginning January
26 1, 2013.

27 (d) This section expires January 1, 2017.

28 SECTION 11. IC 8-1-1-3 IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The members of the
30 commission shall meet and organize the commission. The commission
31 may:

32 (1) before January 1, 2013, subject to the approval of the
33 governor, appoint a secretary of the commission; and

34 (2) after December 31, 2012, appoint a secretary of the
35 commission.

36 (b) The salaries of the members and secretary of the commission
37 shall be fixed by the governor, subject to the approval of the budget
38 agency; however, the salaries of the chairman and the members shall
39 not be less than the following annual minimum amounts:

40 (1) For the chairman, sixty-five thousand dollars (\$65,000).

41 (2) For the members, sixty thousand dollars (\$60,000) each.

42 This subsection expires January 1, 2013.

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1 (c) The commission may appoint one (1) or more administrative law
2 judges who shall be responsible to and serve at the will and pleasure of
3 the commission. While serving, the administrative law judges shall
4 devote full time to the duties of the commission and shall not be
5 actively engaged in any other occupation, profession, or business that
6 constitutes a conflict of interest or otherwise interferes with carrying
7 out their duties as administrative law judges. The salary of each
8 administrative law judge shall be fixed by the commission subject to
9 the approval of the budget agency but may not be less than the
10 following annual amounts:

11 (1) For the chief administrative law judge, forty-five thousand
12 dollars (\$45,000).

13 (2) For all other administrative law judges, forty thousand dollars
14 (\$40,000).

15 (d) A majority of the commission members shall constitute a
16 quorum.

17 (e) On order of the commission any one (1) member of the
18 commission, or an administrative law judge, may conduct a hearing, or
19 investigation, and take evidence therein, and report the same to the
20 commission for its consideration and action; however, a hearing
21 concerning a request for a general increase in the basic rates and
22 charges of a utility in an amount exceeding twenty million dollars
23 (\$20,000,000) may only be conducted by one (1) or more commission
24 members.

25 (f) Each member of the commission shall give bond in the sum of
26 ten thousand dollars (\$10,000) for the faithful performance of ~~his~~ **the**
27 **member's** duties. Such bond shall be filed with the secretary of state.

28 (g) The commission shall formulate rules necessary or appropriate
29 to carry out the provisions of this chapter, and shall perform the duties
30 imposed by law upon them.

31 (h) The commission may:

32 (1) **before January 1, 2013**, employ, with the approval of the
33 governor and the state budget agency; **and**

34 (2) **after December 31, 2012, employ;**
35 sufficient professional staff, including but not limited to specialists,
36 technicians, and analysts, who are exempt from the job classifications
37 and compensation schedules established under IC 4-15. ~~and~~

38 ~~(2)~~ (i) **The commission may** purchase, lease, or otherwise acquire
39 for its internal use sufficient technical equipment necessary for the
40 commission to carry out its statutory duties.

41 SECTION 12. IC 8-1-1.5-11 IS ADDED TO THE INDIANA CODE
42 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2011]: **Sec. 11. This chapter expires January 1, 2013.**

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