HOUSE BILL No. 1029

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 commissioner of the Indiana department of environmental management; or (5) 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.

DeLaney

January 5, 2011, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

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. 1029

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:

SECTION 1. IC 2-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. Legislative Evaluation of Major Agency Appointments

Sec. 1. As used in this chapter, "committee" refers to the joint committee on appointment of major agency heads established by section 7 of this chapter.

Sec. 2. As used in this chapter, "house" refers to the house of representatives of the general assembly.

Sec. 3. As used in this chapter, "major agency appointment" refers to the governor's appointment of any of the following:

(1) A member of the Indiana utility regulatory commission appointed under IC 8-1-1-2.

(2) The commissioner of the Indiana department of transportation appointed under IC 8-23-2-2.

(3) The secretary of family and social services appointed

under IC 12-8-1-2.

(4) The commissioner of the Indiana department of environmental management appointed under IC 13-13-2-1.

(5) The commissioner of labor appointed under IC 22-1-1-2.

Sec. 4. As used in this chapter, "president pro tempore" refers to the president pro tempore of the senate.

Sec. 5. As used in this chapter, "senate" refers to the senate of the general assembly.

Sec. 6. As used in this chapter, "speaker" refers to the speaker of the house of representatives.

Sec. 7. The joint committee on appointment of major agency heads is established.

Sec. 8. (a) The committee consists of the following members:

(1) Four (4) members of the house appointed by the speaker after consultation with the minority leader of the house. Not more than two (2) members appointed under this section may be members of the same political party.

(2) Four (4) members of the senate appointed by the president pro tempore after consultation with the minority leader of the senate. Not more than two (2) members appointed under this section may be members of the same political party.

(b) A member appointed under subsection (a)(1) serves at the pleasure of the speaker.

(c) A member appointed under subsection (a)(2) serves at the pleasure of the president pro tempore.

Sec. 9. A vacancy on the committee shall be filled by:

(1) the speaker, after consultation with the minority leader of the house, if the vacancy occurs in the house membership of the committee; and

(2) the president pro tempore, after consultation with the minority leader of the senate, if the vacancy occurs in the senate membership of the committee.

Sec. 10. The chairman of the legislative council shall designate one (1) of the members appointed under section 8 of this chapter as the committee's chair.

Sec. 11. The legislative services agency shall provide staff support to the committee.

Sec. 12. Each committee member is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative members of interim study committees established by the legislative council.

Sec. 13. The affirmative votes of at least five (5) committee

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members are required for the committee to take action, other than to receive information at a hearing.

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

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

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

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

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

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

(1) receive information about; and

(2) discuss;

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

(c) The committee shall make a report on:

(1) the information the committee received; and

(2) the committee's discussion;

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

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

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

(b) **The governor shall appoint** the members of the commission and **fill** all vacancies occurring ~~therein shall be appointed by the governor from among persons nominated by the nominating committee in accordance with the provisions of IC 8-1-1.5.~~ **on the commission. The individual appointed under this section does not take office**

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until forty-five (45) days after the governor notifies the chair of the joint committee on appointment of major agency heads under IC 2-4-4 of the appointment.

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

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

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

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

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

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

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

(b) The commissioner:

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

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

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

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

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

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

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

(2) may delegate authority to appropriate department staff.

(b) The commissioner:

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

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

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

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

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

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

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

(3) have general charge of all inspections and investigations; and ~~shall~~

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(4) perform such other duties as may be prescribed in this chapter.

(c) The commissioner shall adopt and use an official seal for the authentication of the orders and records of the department.

(d) Before entering upon the discharge of ~~his~~ official duties, the commissioner shall:

(1) execute a bond, payable to the state in such amount and with such sureties as shall be approved by the governor, conditioned for the faithful discharge of ~~his~~ official duties; and

(2) take and subscribe an oath, which shall be endorsed upon ~~his~~ **the** official bond.

~~and~~ The bond and oath when so executed shall be filed in the office of the secretary of state.

(e) The commissioner is authorized and directed to classify and fix the minimum standards for the personnel of the department and to formulate salary schedules with the approval of the governor for the services so classified.

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 8-1-1.5; P.L.87-1985, SECTION 5.

SECTION 8. **An emergency is declared for this act.**

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