
HOUSE BILL No. 1233

DIGEST OF INTRODUCED BILL

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: State boards and commissions. Transfers the duties of the home health care services and hospice services council to the health facilities council. Renames the Indiana health facilities council as the Indiana health facilities, home health care, and hospice council. Changes the membership of the council. Eliminates the law enforcement training board advisory council. Repeals the personnel advisory board (IC 4-15-1, IC 4-15-2-2.2, and IC 4-15-2.5-2); the motor vehicle sales advisory board (IC 9-23-1); operation lifesaver program (IC 9-27-2-12; the Medicaid work incentives council (IC 12-15-42); New Harmony commission (IC 14-20-4); home health care services and hospice services council (IC 16-27-0.5); and mandated health benefits task force (IC 27-1-3-30). Makes conforming changes.

Effective: July 1, 2011.

Wolkins

January 12, 2011, read first time and referred to Committee on Select Committee on Government Reduction.

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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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HOUSE BILL No. 1233



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 4-5-1-11, AS AMENDED BY P.L.106-2008,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 11. The secretary of state may adopt and enforce
4 rules under IC 4-22-2 that are necessary to carry out:

- 5 (1) IC 9-18-26;
- 6 (2) IC 9-22-4;
- 7 ~~(3) IC 9-23-1;~~
- 8 ~~(4)~~ **(3)** IC 9-23-2;
- 9 ~~(5)~~ **(4)** IC 9-23-3; and
- 10 ~~(6)~~ **(5)** IC 9-23-6.

11 SECTION 2. IC 4-15-1.8-7, AS AMENDED BY P.L.158-2006,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2011]: Sec. 7. (a) The department shall do the following:

- 14 (1) Develop personnel policies, methods, procedures, and
15 standards for all state agencies.
- 16 (2) Formulate, establish, and administer position classification
17 plans and salary and wage schedules, all subject to final approval



- 1 by the governor.
- 2 (3) Allocate positions in the state agencies to their proper
- 3 classifications.
- 4 (4) Approve employees for transfer, demotion, promotion,
- 5 suspension, layoff, and dismissal.
- 6 (5) Rate employees' service.
- 7 (6) Arrange with state agency heads for employee training.
- 8 (7) Investigate the need for positions in the state agencies.
- 9 (8) Promulgate and enforce personnel rules.
- 10 (9) Make and administer examinations for employment and for
- 11 promotions.
- 12 (10) Maintain personnel records and a roster of the personnel of
- 13 all state agencies.
- 14 (11) Render personnel services to the political subdivisions of the
- 15 state.
- 16 (12) Investigate the operation of personnel policies in all state
- 17 agencies.
- 18 (13) Assist state agencies in the improvement of their personnel
- 19 procedures.
- 20 (14) Conduct a vigorous program of recruitment of qualified and
- 21 able persons for the state agencies.
- 22 (15) Advise the governor and the general assembly of legislation
- 23 needed to improve the personnel system of this state.
- 24 (16) Furnish any information and counsel requested by the
- 25 governor or the general assembly.
- 26 (17) Establish and administer an employee training and career
- 27 advancement program.
- 28 (18) Administer the state personnel law, IC 4-15-2.
- 29 (19) Institute an employee awards system designed to encourage
- 30 all state employees to submit suggestions that will reduce the
- 31 costs or improve the quality of state agencies.
- 32 (20) Survey the administrative organization and procedures,
- 33 including personnel procedures, of all state agencies, and submit
- 34 to the governor measures to secure greater efficiency and
- 35 economy, to minimize the duplication of activities, and to effect
- 36 better organization and procedures among state agencies.
- 37 (21) Establish, implement, and maintain the state aggregate
- 38 prescription drug purchasing program established under
- 39 IC 16-47-1, as approved by the budget agency.
- 40 (b) Salary and wage schedules established by the department under
- 41 subsection (a) must provide:
- 42 (1) for the establishment of overtime policies, which must

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- 1 include:
- 2 (A) definition of overtime;
- 3 (B) determination of employees or classes eligible for
- 4 overtime pay;
- 5 (C) procedures for authorization;
- 6 (D) methods of computation;
- 7 (E) procedures for payment; and
- 8 (F) a provision that there shall be no mandatory adjustments
- 9 to an employee's established work schedule in order to avoid
- 10 the payment of overtime; and

11 (2) that an appointing authority is not required to reduce the
 12 salary of an employee who is demoted, unless the appointing
 13 authority determines that the salary reduction is warranted for
 14 disciplinary reasons or other good cause.

15 ~~(c) The state personnel advisory board shall advise the director and~~
 16 ~~cooperate in the improvement of all the personnel policies of the state.~~

17 ~~(d)~~ (c) The department shall establish programs of temporary
 18 appointment for employees of state agencies. A program established
 19 under this subsection must contain at least the following provisions:

- 20 (1) A temporary appointment may not exceed one hundred eighty
- 21 (180) working days in any twelve (12) month period.
- 22 (2) The department may allow exceptions to the prohibition in
- 23 subdivision (1) with the approval of the state budget agency.
- 24 (3) A temporary appointment in an agency covered by IC 4-15-2
- 25 is governed by the procedures of that chapter.
- 26 (4) A temporary appointment does not constitute creditable
- 27 service for purposes of the public employees' retirement program
- 28 under IC 5-10.2 and IC 5-10.3. However, an employee who
- 29 served in an intermittent form of temporary employment after
- 30 June 30, 1986, and before July 1, 2003, shall receive creditable
- 31 service for the period of temporary employment.

32 SECTION 3. IC 4-15-2-2 IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2011]: Sec. 2. Except as provided in
 34 ~~IC 4-15-1.8-7(d)~~, **IC 4-15-1.8-7(c)**, all persons covered on January 1,
 35 1966, by this chapter or coming under the provisions of this chapter
 36 after January 1, 1966, shall be eligible for, shall participate in, and shall
 37 receive the benefits of the public employees retirement program as
 38 provided by IC 5-10.2 and IC 5-10.3.

39 SECTION 4. IC 4-15-2-2.6 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.6. "Department"
 41 means ~~the Indiana personnel advisory board~~; the state personnel
 42 director, ~~and~~ the employees of the ~~board~~ **department**, and the director.

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1 SECTION 5. IC 4-15-2-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 5. The ~~board~~ **department** is
3 authorized and required to do the following:

- 4 (1) To make investigations concerning the enforcement and effect
5 of the provisions of this chapter.
- 6 (2) To keep minutes of its proceedings which shall be open to
7 public inspection.
- 8 ~~(3) To advise the state personnel director on matters pertaining to~~
9 ~~state personnel policies and practices.~~

10 SECTION 6. IC 4-15-2-6 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The director shall direct and
12 supervise all administrative and technical activities. In addition to the
13 duties imposed elsewhere in this chapter, the director shall do the
14 following:

- 15 (1) Establish and maintain a roster of all employees in the state
16 service. Prepare or cause to be prepared and recommend a
17 classification and pay plan. Administer the classification and pay
18 plan. Allocate all positions in the state service to their proper
19 class. Formulate eligible lists. Certify persons qualified for
20 appointment. Certify employees for transfer, demotion,
21 promotion, suspension, layoff, and dismissal. Rate employees'
22 services. Arrange with heads of the divisions of the service for
23 employee training. Attend to and perform all other duties imposed
24 by this chapter.
- 25 (2) Appoint, under this chapter, such employees of the department
26 and such experts and special assistants as may be necessary to
27 carry out effectively this chapter.
- 28 (3) Investigate systems of appointment and promotion already in
29 operation in various departments or divisions of the state
30 government.
- 31 (4) Investigate and approve the need for positions, existing and to
32 be created, in the state service.
- 33 (5) Investigate from time to time the operation and effect of this
34 chapter and of the rules. ~~and report the director's findings and~~
35 ~~recommendations to the board.~~
- 36 (6) Administer, enforce, and make effective this chapter and the
37 rules. ~~Discharge all duties imposed upon the director by the~~
38 ~~board; and perform~~ **Perform** any other lawful acts which the
39 director may consider necessary or desirable to carry out the
40 purposes of this chapter.

41 (b) The director shall appoint one (1) or more employees of the
42 department to be the director's deputies.

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1 (c) The director shall employ such expert or special examiners for
2 the conduct of tests as may be required. The director may select
3 officers or employees in the state service to act as examiners in the
4 preparation and rating of tests. An appointing authority may excuse any
5 employee in the authority's division of the service from the employee's
6 regular duties for the time required for work as an examiner. Officers
7 and employees shall not be entitled to extra pay for their service as
8 examiners, but shall be entitled to reimbursement for necessary
9 traveling and other expense.

10 (d) The director shall adopt rules under IC 4-22-2 as the director
11 may consider necessary, appropriate, or desirable to carry out this
12 chapter.

13 (e) The director shall institute an employee awards system designed
14 to encourage state employees to submit suggestions that will reduce the
15 costs, or improve the quality, of state services. All full-time employees
16 are eligible to receive suggestion awards except:

- 17 (1) members of boards and commissions;
- 18 (2) the chief executive officer of any agency or institution, the
19 officer's principal deputies or assistants; or
- 20 (3) persons whose normal job duties include cost analyses.

21 (f) A state suggestion committee shall determine the amount of any
22 award to be given under subsection (e). The state suggestion committee
23 consists of the state personnel director, the director of the budget
24 agency, and the state examiner of the state board of accounts. Any
25 officer of state who is made a member of the suggestion committee
26 may delegate that responsibility to a subordinate employee.

27 SECTION 7. IC 4-15-2-8 IS AMENDED TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Whenever additional agencies
29 or institutions are brought within the provisions of this chapter, either
30 through a separate statute or by amendment to this chapter, persons in
31 such agencies or institutions who are in and have been in positions or
32 similar positions in the state service not theretofore subject to the merit
33 provisions of this chapter shall be entitled to continue to hold such
34 positions until they have an opportunity to acquire regular status.
35 Persons who have been in the same or similar positions for six (6)
36 months or more shall receive regular status by passing a
37 noncompetitive qualifying examination for the classification to which
38 their position has been allocated. Persons with less than six (6) months'
39 service in the same or similar positions shall hold their positions
40 temporarily subject to the entrance examination requirements of this
41 chapter. All qualifying examinations shall be held within one (1) year
42 after the agency or institution is brought under this chapter, unless the

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1 period for holding such examinations is extended by the board with
2 adequate reasons for such extension made a part of the official minutes
3 of the board.

4 (b) Upon the recommendation of the director, ~~and the approval of~~
5 ~~the board~~, those employees in any department or division of the state
6 government who have been appointed under a merit system
7 satisfactorily complying with the provisions of this chapter may be
8 brought into the classified service without examination and retain their
9 existing position.

10 SECTION 8. IC 4-15-2-18, AS AMENDED BY P.L.3-2008,
11 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2011]: Sec. 18. (a) The rating of each test shall be completed
13 and the resulting list established not later than thirty (30) days after the
14 date on which the test was held, unless such time is extended by the
15 director for reasons which the director shall record in the official
16 records of the department. The final earned rating of each person
17 competing in any test shall be determined by the weighted average of
18 the earned ratings of the test, according to weights for each phase
19 established by the director in advance of the giving of the test. The
20 names of all persons attaining the minimum final earned ratings
21 established by the director in advance of the giving of the tests shall be
22 placed upon the eligible list in order of their ratings. The names of
23 persons who have indicated in writing that they are unwilling to accept
24 appointment may be dropped from the list. All persons competing in
25 any test shall be given written notice of their final earned ratings.
26 Statements of former employers of the applicants shall be confidential.
27 A manifest error in rating a test shall be corrected if called to the
28 attention of the director, but such correction shall not invalidate any
29 appointment previously made from such a list.

30 (b) In certification for appointment, in appointment, in
31 reinstatement, and in reemployment in any state service, preference
32 shall be given to former members of the military services of the United
33 States who served on active duty in any branch of the armed forces and
34 who at no time received a discharge or separation under other than
35 honorable conditions, except corrected separation or discharge to read
36 "honorable" as evidenced by appropriate records presented from the
37 United States Department of Defense or appropriate branch of the
38 military service.

39 (c) Preference shall be given in the following priorities:
40 (1) Former members of the military service who have established
41 the present existence of a service connected disability of ten
42 percent (10%) or more, as evidenced by records of the United

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- 1 States Department of Veterans Affairs or disability retirement
 2 benefits as evidenced by laws administered by the United States
 3 Department of Defense.
- 4 (2) The spouse of a veteran with a service connected disability
 5 and the unremarried spouse of a deceased veteran.
- 6 (3) Those former members of the military service who are
 7 wartime veterans.
- 8 (4) Veterans of the military service who served more than one
 9 hundred eighty-one (181) days on active duty, regardless of when
 10 served.
- 11 (d) In all written examinations to determine the qualifications of
 12 applicants for entrance into state service:
- 13 (1) ten (10) points shall be added to the earned rating of persons
 14 taking the competitive examination under subsection (c)(1) or
 15 (c)(2);
- 16 (2) five (5) points shall be added to the earned ratings of persons
 17 taking the competitive examination under subsection (c)(3); and
 18 (3) two (2) points shall be added to the earned rating of persons
 19 taking the competitive examination under subsection (c)(4).
- 20 (e) All points specified in subsection (d) shall be added to the total
 21 combined test scores of the person and shall not be allocated to any
 22 single feature or part of the competitive examination. Rating shall be
 23 based on a scale of one hundred (100) points as the maximum
 24 attainable.
- 25 (f) When veterans preference in state service employment is limited
 26 to wartime veterans, this subsection applies for the purpose of defining
 27 "war":
- 28 (1) World War II - December 7, 1941, to December 31, 1946.
 29 (2) Korean Conflict - June 27, 1950, to January 31, 1955.
 30 (3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.
 31 (4) Actual combat or duty equally hazardous, regardless of time,
 32 or service in any foreign war, insurrection, or expedition, which
 33 service is recognized by the award of a service or campaign medal
 34 of the United States.
- 35 (5) Participation as a regularly assigned crew member of any
 36 military craft in a mission in support of a military operation,
 37 regardless of time, as designated by the armed forces of the
 38 United States.
- 39 (g) Active duty consists of:
- 40 (1) ninety (90) days or more wartime service;
 41 (2) ninety (90) days or more consecutive service which began or
 42 ended during wartime period;

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1 (3) ninety (90) days or more combined service in two (2) or more
2 wartime periods;

3 (4) service of less than ninety (90) days, if discharged for a
4 disability in the line of duty; or

5 (5) service qualifying under subsection (f)(4) or (f)(5), which
6 must be documented by appropriate records of the United States
7 Department of Defense.

8 (h) In examinations where experience is an element of qualification,
9 time spent in the armed forces of the United States shall be credited in
10 a veteran's rating where the veteran's actual employment in a similar
11 vocation to that for which the veteran is examined was interrupted by
12 such service. In all examinations to determine the qualifications of a
13 veteran applicant, credit shall be given for all valuable experience,
14 including experience gained in religious, civic, welfare, service, and
15 organizational activities, regardless of whether any compensation was
16 received for the experience.

17 (i) In determining qualifications for examination, appointment,
18 promotion, retention, transfer, or reinstatement, with respect to
19 preference eligibles, the department shall waive requirements as to age,
20 height, and weight, if the requirement is not essential to the
21 performance of the duties of the position for which examination is
22 given. The department, after giving due consideration to the
23 recommendation of any accredited physician, shall waive the physical
24 requirements in the case of any veteran, if the veteran is, in the opinion
25 of the director, physically able to discharge efficiently the duties of the
26 position for which the examination is given. No minimum educational
27 requirement may be prescribed in any civil service examination except
28 for such scientific, technical, or professional positions, the duties of
29 which the department decides cannot be performed by a person who
30 does not have such education. The director shall make a part of the
31 department's public records the director's reasons for such decision.

32 (j) The names of preference eligibles shall be entered on the
33 appropriate registers or lists of eligibles in accordance with their
34 respective augmented ratings. The name of a preference eligible shall
35 be entered ahead of all others having the same rating.

36 (k) The director shall adopt appropriate rules under IC 4-22-2 for
37 the administration and enforcement of this section.

38 (l) In any reduction in personnel in any state service, competing
39 employees shall be released in accordance with ~~board regulations~~
40 **rules**, which shall give due effect to tenure of employment, military
41 preference, length of service, and efficiency ratings. The length of time
42 spent in active service in the armed forces of the United States of each

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1 such employee shall be credited in computing length of total service.
 2 Veteran's preference points shall be added to the retention score of a
 3 preference eligible. When any of the functions of any state agency are
 4 transferred to, or when any state agency is replaced by, some other state
 5 agency or agencies, all preference employees in the function or
 6 functions transferred or in the agency replaced shall first be transferred
 7 to the replacing agency or agencies for employment in positions for
 8 which they are qualified, before the agency or agencies appoint
 9 additional employees from any other sources for such positions.

10 (m) Any preference eligible who has resigned may, at the request of
 11 any appointing officer, be certified for and appointed to any position
 12 for which the preference eligible has been a regular employee in the
 13 state service.

14 (n) Any preference eligible who has been furloughed or separated
 15 without delinquency or misconduct, upon request, shall have the
 16 preference eligible's name placed on all appropriate registers and
 17 employment lists, for every position for which the preference eligible's
 18 qualifications have been established.

19 (o) Applicants claiming preference of their own service must submit
 20 either:

- 21 (1) original discharge or separation or certified copies or photostat
- 22 copies of the originals;
- 23 (2) an official statement from the United States Department of
- 24 Defense showing record of service; or
- 25 (3) an official statement from the United States Department of
- 26 Veterans Affairs supporting the claim for disability.

27 SECTION 9. IC 4-15-2-27 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 27. (a) In cooperation
 29 with appointing authorities, the director shall establish, and may from
 30 time to time amend, standards of performance and output for
 31 employees in each class of positions in the classified service or for
 32 groups of classes, and a system of service ratings based upon these
 33 standards. In such manner and with such weight as shall be provided
 34 in the rules, service ratings shall be considered:

- 35 (1) in determining salary increases and decreases within the limits
- 36 established by law and by the pay plan;
- 37 (2) as a factor in promotion tests;
- 38 (3) as a factor in determining the order of lay-off when forces are
- 39 reduced because of lack of funds or work, and the order in which
- 40 names are to be placed on reemployment lists; and
- 41 (4) as a means of discovering employees who should be
- 42 promoted, transferred, or who, because of their low-service value,

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1 should be demoted or dismissed.
2 In such manner and at such time as the rules may require, each
3 appointing authority shall make and report to the director the service
4 ratings of employees in his division of the service or such information
5 as the director may request as a basis for determining the service
6 ratings.

7 (b) All officers and employees of the state, shall, during usual
8 business hours, grant to ~~the members of the board;~~ the director ~~and any~~
9 ~~agent or employee of the board designated by it or him;~~ free access to
10 the premises and records pertaining to personnel matters under their
11 control and shall furnish them such facilities, assistance, and
12 information as may be required in administering the provisions of this
13 chapter.

14 SECTION 10. IC 4-15-2-30 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 30. Every appointment,
16 transfer, promotion, demotion, dismissal, change of salary rate, absence
17 from duty, and other temporary or permanent changes in the status of
18 employees in both the unclassified and the classified service shall be
19 reported to the director at such time, in such form, and together with
20 such supporting or pertinent information, as the director may prescribe.
21 The director shall maintain a perpetual roster of all officers and
22 employees in the unclassified service and the classified service,
23 showing for each such person the title of the position held, his
24 departmental or other agency assignment, his salary rate, date of
25 appointment, complete employment history, and such other data as the
26 director considers pertinent. The director ~~shall also maintain such other~~
27 ~~personnel records as he may consider desirable or as the board shall~~
28 ~~direct, and~~ shall make available to the governor, the general assembly,
29 the budget director, department and institution executives, and other
30 persons having a proper interest therein tabulations and analyses of
31 such personnel data as ~~he~~ **the director** has available.

32 SECTION 11. IC 4-15-2-31 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) A public
34 disbursing officer, auditing officer, or other fiscal officer of the state
35 shall not draw, sign, or issue or authorize the drawing, signing, or
36 issuing of any warrant or check upon the treasurer of state or another
37 disbursing officer of the state for the payment of a salary or other
38 compensation for personal services within the state service. The
39 treasurer of state or another disbursing officer of the state shall not pay
40 any salary or other compensation for personal services unless a payroll
41 or account for the salary or other compensation containing the name of
42 every person to be paid and the accounts to be paid to the person has

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1 been certified by the director or a person designated by the director to
2 the effect that the persons named on the payroll or account are either
3 in the unclassified service or have been appointed or otherwise
4 established in their positions according to the provisions of this
5 chapter, and that the payment of the amounts shown on the payroll or
6 account will not violate the provisions of the pay plan or the rules
7 pertaining to the payment.

8 (b) Any payment violating the provisions of the pay plan or the rules
9 pertaining to the payment, or made to a person appointed or established
10 in the person's position in a manner contrary to the provisions of this
11 chapter, may be recovered from the appointing authority, the director,
12 or any officer or person making the payment, whichever is liable, or
13 from the sureties on the official bond for the officer or person. Action
14 for recovery may be maintained by ~~the board or any member of the~~
15 ~~board~~; any officer or employee of the state service, or any citizen of the
16 state. All money recovered under this section shall be paid into the
17 state treasury. Any citizen may maintain a suit to restrain a disbursing
18 officer from making any payment in contravention of any provision of
19 this chapter or of any lawful rule or order under this chapter.

20 (c) Any person appointed or employed in contravention of any
21 provision of this chapter or of any rule or order under this chapter who
22 performs service for which the person is not paid shall have and may
23 maintain an action against the officer or officers who purported so to
24 appoint or employ the person to recover the agreed pay for services, or
25 the reasonable value of the services if no pay was agreed upon. No
26 officer shall be reimbursed by the state at any time for any sum paid to
27 the person on account of the services.

28 (d) If the director wrongfully withholds certification of the payroll
29 voucher or account of any employee, the employee may maintain a
30 proceeding to compel the director to certify the payroll voucher or
31 account.

32 SECTION 12. IC 4-15-2-40 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40. (a) In applying the
34 provisions of this chapter or in doing any of the things provided for in
35 this chapter, no officer or employee shall give any weight whatsoever
36 to political, religious or racial considerations. No person holding a
37 position in the state service ~~nor any member of the board~~ shall be
38 forced to make political contributions, nor be required to participate in
39 any form of political activity whatsoever other than to express freely his
40 views as a citizen and to cast his vote in any election.

41 (b) No person elected to state or federal public office may, during
42 the term for which he was elected, be appointed to any position in the

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1 classified service.

2 (c) Any employee in the classified service who becomes a candidate
3 for local office shall, upon request, be granted a leave of absence; any
4 employee in the classified service who is elected to a state or federal
5 public office shall be considered to have resigned from the service.
6 This subsection does not apply to precinct committeemen, state or
7 national party convention delegates, or candidates for these party
8 positions.

9 SECTION 13. IC 4-15-2.5-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this
11 chapter, unless a different meaning appears from the context:

12 (a) The term "director" means the state personnel director as
13 established by IC 4-15-1.8.

14 ~~(b) The term "board" means the Indiana personnel advisory board~~
15 ~~established by IC 4-15-1-1.~~

16 ~~(e)~~ (b) The term "appointing authority" means the head of a
17 department, division, board, commission, person or group of persons
18 who has the power by law or by lawfully delegated authority to make
19 appointments to positions in state service.

20 ~~(d)~~ (c) The term "political affiliation" means the political party to
21 which an individual recognizes a relationship either by act of primary
22 election voting or by affirmation of the chairman of the state committee
23 of the party with which the employee states he is affiliated.

24 SECTION 14. IC 4-15-2.5-3 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. ~~(Director's Duties)~~
26 The personnel director, in addition to all other duties imposed by law,
27 ~~and subject to the rules promulgated by the board,~~ shall administer the
28 provisions of this chapter. The director shall:

29 (1) conduct the entrance and promotion tests which are required
30 for the carrying out of the provisions of this chapter;

31 (2) verify the political affiliation of each applicant for
32 employment and each employee being considered for promotion
33 which otherwise qualify for employment or promotion; however,
34 no applicant or employee shall be verified if the employment or
35 promotion would disrupt or postpone the attainment of the
36 required political balance of the department or pay classification;
37 ~~therein unless the required political affiliation of an applicant or~~
38 ~~employee has been waived by the board;~~

39 (3) classify all positions of employment in all agencies or
40 institutions operating under this chapter by the procedure
41 established by IC 4-15-2;

42 (4) develop a pay plan for all employees operating under the

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provisions of this chapter, which pay plan shall be subject to the approval of the budget agency and the governor; and
(5) certify all individuals employed under the provisions of this chapter as provided by IC 4-15-2, except that:
(A) The director shall certify five (5) qualified applicants and indicate each applicant's political affiliation.
(B) If the director cannot certify the required number of individuals with the political affiliation because there are not enough individuals that qualified after testing, who are willing to accept appointment or because there are peculiar and exceptional qualifications of a scientific, professional, or educational character required for the position and it is evident that the required number of individuals cannot be certified, the director may authorize the appointing authority to fill the vacancy with any individual who meets the qualifications for the position, without regard to the applicant's political affiliation.
(C) For positions involving unskilled or semi-skilled labor when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the procedure prescribed by this chapter, the director may make appointments by the procedure provided by IC 4-15-2.

SECTION 15. IC 4-15-2.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (~~Payment in Violation; Action for Recovery~~) Action for such recovery may be maintained by the board or any member thereof, any officer or employee of the state service or any citizen of the state.

SECTION 16. IC 4-15-2.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 20. (~~Exemptions; Other Positions~~) (a) All positions in the state agency or any part of a state agency, which operates under the provisions of this chapter, that determine administrative policies shall be exempt from the provisions of this chapter by rules promulgated by the ~~board~~: **department**.

(b) One (1) personal secretary for each position that is exempt from the provisions of this chapter by this section and section 18 shall be exempt from the provisions of this chapter.

SECTION 17. IC 4-15-2.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (~~Agency Request; Inclusion~~) The administrative head of any state agency may submit a request to the personnel director to have ~~his~~ **the administrative head's** entire agency or any part thereof operate under the provisions of this

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1 chapter. Upon the approval of the ~~personnel board~~ **department** and the
2 governor, any state agency or any part of a state agency may operate
3 under the provisions of this chapter.

4 SECTION 18. IC 4-15-2.5-22 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. (~~Agency Request;~~
6 ~~Exemption~~) The administrative head of any state may submit a request
7 to the personnel director to have ~~his~~ **the administrative head's** entire
8 agency or any part exempt from the provision of this chapter. Upon the
9 approval of the ~~personnel board~~ **department** and the governor, any
10 state agency or any part thereof may be exempt from the provisions of
11 this chapter.

12 SECTION 19. IC 4-15-2.5-23 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23. (~~Agency Request;~~
14 ~~Petition for Change~~) (a) The administrative head of any state agency or
15 any part thereof that operates under the provisions of this chapter may
16 submit a petition to the ~~personnel board~~ **department** to increase or
17 decrease the number of employees exempt from the provisions of this
18 chapter.

19 (b) The ~~board~~ **department** shall have the authority to decrease or
20 increase the number of employees exempt from this chapter. However,
21 the ~~board~~ **department** shall not exempt positions which do not
22 formulate policy and they shall not exempt policy positions if such
23 action would impede the operation of the agency.

24 SECTION 20. IC 5-2-1-2, AS AMENDED BY P.L.77-2009,
25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2011]: Sec. 2. For the purposes of this chapter, and unless the
27 context clearly denotes otherwise, the following definitions apply
28 throughout this chapter:

29 (1) "Law enforcement officer" means an appointed officer or
30 employee hired by and on the payroll of the state, any of the
31 state's political subdivisions, or a public or private postsecondary
32 educational institution whose board of trustees has established a
33 police department under IC 21-17-5-2 or IC 21-39-4-2 who is
34 granted lawful authority to enforce all or some of the penal laws
35 of the state of Indiana and who possesses, with respect to those
36 laws, the power to effect arrests for offenses committed in the
37 officer's or employee's presence. However, the following are
38 expressly excluded from the term "law enforcement officer" for
39 the purposes of this chapter:

- 40 (A) A constable.
- 41 (B) A special officer whose powers and duties are described
- 42 in IC 36-8-3-7 or a special deputy whose powers and duties are

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- 1 described in IC 36-8-10-10.6.
- 2 (C) A county police reserve officer who receives compensation
- 3 for lake patrol duties under IC 36-8-3-20(f)(4).
- 4 (D) A conservation reserve officer who receives compensation
- 5 for lake patrol duties under IC 14-9-8-27.
- 6 (E) An employee of the gaming commission whose powers
- 7 and duties are described in IC 4-32.2-9.
- 8 (F) A correctional police officer described in IC 11-8-9.
- 9 (2) "Board" means the law enforcement training board created by
- 10 this chapter.
- 11 ~~(3) "Advisory council" means the law enforcement advisory~~
- 12 ~~council created by this chapter.~~
- 13 ~~(4)~~ (3) "Executive training program" means the police chief
- 14 executive training program developed by the board under section
- 15 9 of this chapter.
- 16 ~~(5)~~ (4) "Law enforcement training council" means one (1) of the
- 17 confederations of law enforcement agencies recognized by the
- 18 board and organized for the sole purpose of sharing training,
- 19 instructors, and related resources.
- 20 ~~(6)~~ (5) "Training regarding the lawful use of force" includes
- 21 classroom and skills training in the proper application of hand to
- 22 hand defensive tactics, use of firearms, and other methods of:
- 23 (A) overcoming unlawful resistance; or
- 24 (B) countering other action that threatens the safety of the
- 25 public or a law enforcement officer.
- 26 ~~(7)~~ (6) "Hiring or appointing authority" means:
- 27 (A) the chief executive officer, board, or other entity of a
- 28 police department or agency with authority to appoint and hire
- 29 law enforcement officers; or
- 30 (B) the governor, mayor, board, or other entity with the
- 31 authority to appoint a chief executive officer of a police
- 32 department or agency.

33 SECTION 21. IC 5-2-1-3, AS AMENDED BY P.L.22-2005,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 3. ~~(a)~~ There is created, as a criminal justice
 36 agency of the state, a law enforcement training board to carry out the
 37 provisions of this chapter. The board members are to be selected as
 38 provided by this chapter. The board is composed of the following
 39 members:

- 40 (1) The superintendent of the Indiana state police department,
- 41 who shall serve as chairperson of the board.
- 42 (2) The deputy director of the division of preparedness and

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- 1 training of the department of homeland security. The deputy
- 2 director shall serve as the vice chair of the board.
- 3 (3) The chief of police of a consolidated city.
- 4 (4) One (1) county sheriff from a county with a population of at
- 5 least one hundred thousand (100,000).
- 6 (5) One (1) county sheriff from a county of at least fifty thousand
- 7 (50,000) but less than one hundred thousand (100,000)
- 8 population.
- 9 (6) One (1) county sheriff from a county of under fifty thousand
- 10 (50,000) population.
- 11 (7) One (1) chief of police from a city of at least thirty-five
- 12 thousand (35,000) population, who is not the chief of police of a
- 13 consolidated city.
- 14 (8) One (1) chief of police from a city of at least ten thousand
- 15 (10,000) but under thirty-five thousand (35,000) population.
- 16 (9) One (1) chief of police, police officer, or town marshal from
- 17 a city or town of under ten thousand (10,000) population.
- 18 (10) One (1) prosecuting attorney.
- 19 (11) One (1) judge of a circuit or superior court exercising
- 20 criminal jurisdiction.
- 21 (12) One (1) member representing professional journalism.
- 22 (13) One (1) member representing the medical profession.
- 23 (14) One (1) member representing education.
- 24 (15) One (1) member representing business and industry.
- 25 (16) One (1) member representing labor.
- 26 (17) One (1) member representing Indiana elected officials of
- 27 counties, cities, and towns.
- 28 (b) The following members constitute an advisory council to assist
- 29 the members of the board in an advisory, nonvoting capacity:
- 30 (1) The special agent in charge of the Federal Bureau of
- 31 Investigation field office covering the state of Indiana, subject to
- 32 the agent's approval to serve in such capacity.
- 33 (2) The attorney general of Indiana.
- 34 (3) One (1) member representing forensic science, to be
- 35 appointed by the governor.
- 36 (4) One (1) member representing theology, to be appointed by the
- 37 governor.
- 38 (5) The director of the law enforcement division of the
- 39 department of natural resources.
- 40 SECTION 22. IC 5-2-1-4, AS AMENDED BY P.L.52-2005,
- 41 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2011]: Sec. 4. (a) All members of the board shall be appointed

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1 to the board by the governor. The appointments shall be made on a
 2 bipartisan basis so that not more than one-half (1/2) of the members of
 3 the board shall at any time be members of either of the two (2) major
 4 political parties. All appointments shall be for terms of four (4) years
 5 or while maintaining the position held at the time of appointment to the
 6 board, whichever is the lesser period. Appointees to the board shall
 7 serve as members of the board only while holding the office or position
 8 held at the time of appointment to the board in order that the
 9 representative nature of the board outlined in section 3 of this chapter
 10 may be maintained. However, each member of the board shall serve
 11 until the member's successor has been appointed and qualified, unless
 12 the member's services are terminated earlier for sufficient reason.
 13 Vacancies on the board caused by expiration of a term, termination of
 14 the office or position held at time of appointment, or for any other
 15 reason shall be filled in the same manner as original appointments. A
 16 member appointed to fill a vacancy created other than by expiration of
 17 a term shall be appointed for the unexpired term of the member
 18 succeeded in the same manner as an original appointment. Members of
 19 the board may be reappointed for additional terms. All members of the
 20 board shall serve, unless their services are terminated earlier for
 21 sufficient reason, until their successors have been appointed and
 22 qualified. Members of the board may be removed by the governor for
 23 inefficiency, incompetence, neglect of duty, or other good cause after
 24 having been accorded a hearing by the governor upon reasonable notice
 25 of the charge being made against them.

26 (b) Members of the advisory council who serve by virtue of their
 27 office or position shall serve as members of the advisory council only
 28 during the term of their office or position as the case may be. The
 29 governor is authorized and empowered to appoint members to the
 30 advisory council in addition to those enumerated in section 3(b) of this
 31 chapter. All members appointed to the advisory council by the
 32 governor shall serve only during the pleasure of the governor. Advisory
 33 council appointments need not be made on a bipartisan basis.

34 SECTION 23. IC 5-2-1-5 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2011]: Sec. 5. Membership on the law
 36 enforcement training board ~~or the advisory council~~ shall not constitute
 37 holding a public office and members of the board ~~and advisory council~~
 38 shall not be required to take and file oaths of office before serving in
 39 such capacities. The board ~~and the advisory council~~ shall exercise only
 40 the powers granted by this chapter. No member of the board ~~or of the~~
 41 ~~advisory council~~ shall be disqualified from holding any public office or
 42 position by reason of ~~his~~ **the member's** appointment or membership on

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1 the board, ~~or advisory council~~, nor shall any such person forfeit any
2 office, position, or employment by reason of an appointment pursuant
3 to this chapter, notwithstanding the provisions of any statute,
4 ordinance, or city charter.

5 SECTION 24. IC 5-2-1-6, AS AMENDED BY P.L.110-2009,
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2011]: Sec. 6. The board ~~and advisory council~~ shall meet at
8 least four (4) times in each year and shall hold special meetings when
9 called by the chairperson. The presence of nine (9) members of the
10 board constitutes a quorum for doing business. At least nine (9)
11 affirmative votes are required for the passage of any matter put to a
12 vote of the board. ~~Advisory council members are entitled to participate~~
13 ~~in the business and deliberation of the board, but only board members~~
14 ~~are entitled to vote.~~ The board shall establish its own procedure and
15 requirements with respect to place and conduct of its meetings.

16 SECTION 25. IC 5-2-1-8 IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2011]: Sec. 8. The members of the board ~~and~~
18 ~~the advisory council~~ shall serve without compensation except that a
19 salary per diem and actual expenses incurred, in accordance with travel
20 policies and procedures established by the department of
21 administration and the state budget agency, shall be allowed to each
22 member for attendance at regular or special meetings or otherwise
23 engaging in official business of the board.

24 SECTION 26. IC 9-17-3-3.1, AS AMENDED BY P.L.131-2008,
25 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2011]: Sec. 3.1. The affidavit required by section 3(a)(5) of
27 this chapter shall be printed in the following form:

28 STATE OF INDIANA)
29) ss:
30 COUNTY OF _____)

31 I affirm under the penalties for perjury that all of the following are
32 true:

- 33 (1) That I am a dealer licensed under ~~IC 9-23-1~~. **IC 9-23-2-1**.
34 (2) That I cannot deliver a valid certificate of title to the retail
35 purchaser of the vehicle described in paragraph (3) at the time of
36 sale of the vehicle to the retail purchaser. The identity of the
37 previous seller or transferor is _____.
38 Payoff of lien was made on (date)_____. I expect to deliver a
39 valid and transferable certificate of title not later than
40 (date)_____ from the (State of)_____ to the
41 purchaser.
42 (3) That I will undertake reasonable commercial efforts to

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1 produce the valid certificate of title. The vehicle identification
2 number is _____.

3 Signed _____, Dealer

4 By _____

5 Dated _____, _____

6 CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS
7 AFFIDAVIT.

8 _____

9 Customer Signature

10 NOTICE TO THE CUSTOMER

11 If you do not receive a valid certificate of title within the time
12 specified by this affidavit, you have the right to return the vehicle to the
13 vehicle dealer ten (10) days after giving the vehicle dealer written
14 notice demanding delivery of a valid certificate of title and after the
15 vehicle dealer's failure to deliver a valid certificate of title within that
16 ten (10) day period. Upon return of the vehicle to the vehicle dealer in
17 the same or similar condition as when it was delivered to you, the
18 vehicle dealer shall pay you the purchase price plus sales taxes, finance
19 expenses, insurance expenses, and any other amount that you paid to
20 the vehicle dealer.

21 If a lien is present on the previous owner's certificate of title, it is the
22 responsibility of the third party lienholder to timely deliver the
23 certificate of title in the third party's possession to the dealer not more
24 than ten (10) business days after there is no obligation secured by the
25 vehicle. If the dealer's inability to deliver a valid certificate of title to
26 you within the above-described ten (10) day period results from the
27 acts or omissions of a third party who has failed to timely deliver the
28 certificate of title in the third party's possession to the dealer, the dealer
29 may be entitled to claim against the third party the damages allowed by
30 law.

31 SECTION 27. IC 9-27-2-4, AS AMENDED BY P.L.210-2005,
32 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2011]: Sec. 4. The office shall do the following to carry out
34 this chapter:

35 (1) Develop, plan, and conduct programs and activities designed
36 to prevent and reduce traffic accidents and to facilitate the control
37 of traffic on Indiana streets and highways.

38 (2) Advise, recommend, and consult with state departments,
39 divisions, boards, commissions, and agencies concerning traffic
40 safety, accident prevention, and traffic facilitation programs and
41 activities and coordinate these programs and activities on an
42 effective statewide basis.

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- 1 (3) Organize and conduct, in cooperation with state departments
2 and agencies, programs, services, and activities designed to aid
3 political subdivisions in the control of traffic and prevention of
4 traffic accidents.
- 5 (4) Develop informational, educational, and promotional material
6 on traffic control and traffic accident prevention, disseminate the
7 material through all possible means of public information, and
8 serve as a clearinghouse for information and publicity on traffic
9 control and accident prevention programs and activities of state
10 departments and agencies. These activities must include materials
11 and information designed to make senior citizens aware of the
12 effect of age on driving ability.
- 13 (5) Cooperate with public and private agencies interested in
14 traffic control and traffic accident prevention in the development
15 and conduct of public informational and educational activities
16 designed to promote traffic safety or to support the official traffic
17 safety program of Indiana.
- 18 (6) Study and determine the merits of proposals affecting traffic
19 control, traffic safety, or traffic accident prevention activities in
20 Indiana and recommend to the governor and the general assembly
21 the measures that will serve to further control and reduce traffic
22 accidents.
- 23 (7) Study proposed revisions and amendments to the motor
24 vehicle laws and all other laws concerning traffic safety and make
25 recommendations relative to those laws to the governor and
26 general assembly.
- 27 (8) Develop and conduct a program of effective alcohol and drug
28 countermeasures to protect and conserve life and property on
29 Indiana streets and highways.
- 30 ~~(9) Administer the operation lifesaver program referred to in~~
31 ~~section 12 of this chapter to promote and coordinate public~~
32 ~~education concerning railroad grade crossing safety.~~
- 33 SECTION 28. IC 10-17-9-8 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Each member,
35 the estate of a deceased member, or the estate of a member under
36 guardianship is liable for the costs of maintenance of the member in an
37 amount up to one hundred percent (100%) of the daily per capita cost
38 of personal services and all other operating expenses for the preceding
39 fiscal year. The per capita charge may be adjusted to reflect the level
40 of care provided.
- 41 (b) The level of care must be as consistent as possible with:
42 (1) the care category of the facility in which the member is

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- 1 placed;
- 2 (2) the rules of the Indiana health facilities, **home health care,**
- 3 **and hospice** council adopted under IC 16-28; and
- 4 (3) the applicable code of the federal government covering
- 5 reimbursement from the United States Department of Veterans'
- 6 Affairs or another department of the federal government.

7 (c) The liability created for the costs of maintenance of a member
 8 constitutes a lien upon the real property of the member if the lien is
 9 recorded as provided in this chapter. The lien has priority over all liens
 10 subsequently acquired.

11 SECTION 29. IC 12-7-2-44, AS AMENDED BY P.L.130-2009,
 12 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2011]: Sec. 44. "Council" means the following:

- 14 (1) For purposes of IC 12-9-4, the meaning set forth in
- 15 IC 12-9-4-1.
- 16 (2) For purposes of IC 12-12-8, the meaning set forth in
- 17 IC 12-12-8-2.5.
- 18 (3) For purposes of IC 12-13-4, the meaning set forth in
- 19 IC 12-13-4-1.
- 20 ~~(4) For purposes of IC 12-15-41 and IC 12-15-42, the Medicaid~~
- 21 ~~work incentives council established by IC 12-15-42-1.~~
- 22 ~~(5)~~ (4) For purposes of IC 12-12.7-2, the meaning set forth in
- 23 IC 12-12.7-2-2.
- 24 ~~(6)~~ (5) For purposes of IC 12-21-4, the meaning set forth in
- 25 IC 12-21-4-1.
- 26 ~~(7)~~ (6) For purposes of IC 12-28-5, the meaning set forth in
- 27 IC 12-28-5-1.

28 SECTION 30. IC 12-10-6-5, AS AMENDED BY P.L.99-2007,
 29 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2011]: Sec. 5. (a) An individual who is determined under
 31 section 2.1(a)(2) of this chapter to be incapable of residing in the
 32 individual's own home because of mental illness may be admitted to a
 33 home or facility that provides residential care to the extent that money
 34 is available for the care.

35 (b) Within thirty (30) days after an individual with a mental illness
 36 is placed in a home or facility that provides residential care, a
 37 comprehensive care plan must be developed for the individual.

38 (c) The residential care facility, in cooperation with the community
 39 mental health center or an individual's managed care provider (as
 40 defined in IC 12-7-2-127(b)) serving the area in which the residential
 41 care facility is located, shall develop the comprehensive care plan for
 42 the individual. The plan must include the following:

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1 (1) Psychosocial rehabilitation services that are provided within
 2 the community.
 3 (2) A comprehensive range of activities to meet multiple levels of
 4 need, including the following:
 5 (A) Recreational and socialization activities.
 6 (B) Social skills.
 7 (C) Educational, training, occupational, and work programs.
 8 (D) Opportunities for progression into less restrictive and
 9 more independent living arrangements.
 10 (3) Appropriate alternate placement if the individual's needs
 11 cannot be met by the facility.
 12 (d) The **Indiana** health facilities, **home health care, and hospice**
 13 council shall, in coordination with the division of mental health and
 14 addiction and the division, adopt rules under IC 4-22-2 to govern:
 15 (1) residential care; and
 16 (2) the comprehensive care plan;
 17 provided to individuals with a mental illness who reside under this
 18 chapter in a home or facility that provides residential care.
 19 SECTION 31. IC 12-11-2.1-1, AS AMENDED BY P.L.99-2007,
 20 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2011]: Sec. 1. (a) The bureau shall determine whether or not
 22 an individual has a developmental disability. For individuals for whom
 23 there is not enough current information available to make a
 24 determination of eligibility, the bureau shall use the results of a
 25 diagnostic assessment in determining whether an individual has a
 26 developmental disability. A diagnostic assessment must include the
 27 following:
 28 (1) Diagnostic information concerning the individual's
 29 functioning level and medical and habilitation needs.
 30 (2) All information necessary for the use of the office of Medicaid
 31 policy and planning, the Indiana health facilities, **home health**
 32 **care, and hospice** council, and the division.
 33 (3) The use of all appropriate assessments conducted under rules
 34 adopted under IC 16-28.
 35 (b) An individual who is found not to have a developmental
 36 disability may appeal the bureau's finding under IC 4-21.5.
 37 (c) If an individual is determined to have a developmental disability,
 38 the office shall determine whether the individual meets the appropriate
 39 federal level of care requirements.
 40 SECTION 32. IC 12-15-41-2 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. As used in this
 42 chapter, "countable resources" means all cash, other liquid assets, real

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1 property, and personal property owned by an applicant for or a
 2 recipient of Medicaid under this chapter, or the spouse of an applicant
 3 or a recipient, that could be converted to cash to be used for support or
 4 maintenance, except the following:

5 (1) All resources disregarded by the office under this article for
 6 the purpose of determining eligibility for Medicaid.

7 (2) Any resource eligible for exclusion under 42 U.S.C.
 8 1396a(r)(2), including a retirement account established under 26
 9 U.S.C. 220 and held by either the applicant or recipient or the
 10 applicant's or recipient's spouse.

11 (3) Subject to approval by the office, not more than twenty
 12 thousand dollars (\$20,000) in independence and self-sufficiency
 13 accounts held by the applicant or recipient for the sole purpose of
 14 purchasing goods or services, including assistive technology and
 15 personal assistance, that:

16 (A) will increase the employability or independence of the
 17 applicant or recipient; and

18 (B) are not services to which the recipient is entitled under
 19 Medicaid or any other publicly funded program.

20 ~~In determining the types of accounts to be approved under this~~
 21 ~~subdivision, the office shall consider any recommendations made~~
 22 ~~by the Medicaid work incentives council established by~~
 23 ~~IC 12-15-42-1.~~

24 SECTION 33. IC 12-15-41-13 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) The office shall
 26 establish criteria to determine the effectiveness of:

27 (1) the buy-in program; and

28 (2) continued Medicaid coverage through Section 1619 of the
 29 federal Social Security Act (42 U.S.C. 1382h).

30 (b) The criteria required under subsection (a) must include the
 31 following:

32 (1) The number of individuals with disabilities who are:

33 (A) enrolled in the buy-in program; or

34 (B) receiving Medicaid through Section 1619 of the federal
 35 Social Security Act (42 U.S.C. 1382h).

36 (2) State revenues resulting from premiums paid by participants
 37 in the buy-in program.

38 (3) State costs incurred as a result of implementing the buy-in
 39 program, including administrative costs and costs of providing
 40 services.

41 (c) In addition to the criteria required under subsection (b), the
 42 office may establish criteria to determine the following:

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1 (1) Comparative costs of Medicaid funded services for
 2 participants in the buy-in program and work incentives created
 3 through Section 1619 of the federal Social Security Act (42
 4 U.S.C. 1382h) before and after employment.

5 (2) The number of Supplemental Security Income and Social
 6 Security Disability Insurance recipients in Indiana who are no
 7 longer dependent on, or who have reduced dependence on, public
 8 assistance or health care entitlement services, other than Medicaid
 9 or the children's health insurance program, due to participation in
 10 the buy-in program or work incentives created through Section
 11 1619 of the federal Social Security Act (42 U.S.C. 1382h).

12 (3) The number of individuals with severe disabilities who are no
 13 longer dependent on, or who have reduced dependence on, public
 14 benefits or services, other than Medicaid or the children's health
 15 insurance program, due to income or support services received
 16 through participation in the buy-in program or work incentives
 17 created through Section 1619 of the federal Social Security Act
 18 (42 U.S.C. 1382h).

19 (4) The change in the number of buy-in program participants or
 20 participants in work incentives created through Section 1619 of
 21 the federal Social Security Act (42 U.S.C. 1382h) who have
 22 health care needs and related services covered through employer
 23 based benefit programs.

24 (d) In evaluating the effectiveness of the state's work incentive
 25 initiatives for individuals with disabilities, the office:

26 (1) shall collaborate with other state agencies on data collection;
 27 and

28 (2) may consult with an independent contractor to collect data on
 29 the criteria listed under subsection (b).

30 ~~(e) The office shall provide an annual report of its evaluation under
 31 this section to the council not later than October 1 each year, beginning
 32 in 2003.~~

33 SECTION 34. IC 12-15-41-15 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. (a) The office shall
 35 adopt rules under IC 4-22-2 to implement this chapter.

36 (b) The office may adopt emergency rules under IC 4-22-2-37.1 to
 37 implement this chapter on an emergency basis.

38 ~~(c) In adopting rules under this section, the office shall:~~

39 ~~(1) submit proposed rules to the council; and~~

40 ~~(2) consider any recommendations of the council before adopting
 41 final rules.~~

42 SECTION 35. IC 12-28-5-10, AS AMENDED BY P.L.99-2007,

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1 SECTION 147, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 10. In conjunction with the division
3 of disability and rehabilitative services, the council shall do the
4 following:

5 (1) Determine the current and projected needs of each geographic
6 area of Indiana for residential services for individuals with a
7 developmental disability.

8 (2) Determine how the provision of developmental or vocational
9 services for residents in these geographic areas affects the
10 availability of developmental or vocational services to individuals
11 with a developmental disability living in their own homes.

12 (3) Develop standards for licensure of supervised group living
13 facilities regarding the following:

14 (A) A sanitary and safe environment for residents and
15 employees.

16 (B) Classification of supervised group living facilities.

17 (C) Any other matters that will ensure that the residents will
18 receive a residential environment.

19 (4) Develop standards for the approval of entities providing
20 supported living services.

21 (5) Recommend social and habilitation programs to the Indiana
22 health facilities, **home health care, and hospice** council for
23 individuals with a developmental disability who reside in health
24 facilities licensed under IC 16-28.

25 (6) Develop and update semiannually a report that identifies the
26 numbers of individuals with a developmental disability who live
27 in health facilities licensed under IC 16-28. The Indiana health
28 facilities, **home health care, and hospice** council shall assist in
29 developing and updating this report.

30 SECTION 36. IC 14-8-2-48, AS AMENDED BY P.L.85-2008,
31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2011]: Sec. 48. (a) "Commission", except as provided in
33 subsections (b) through (r), refers to the natural resources commission.

34 (b) "Commission", for purposes of IC 14-13-1, has the meaning set
35 forth in IC 14-13-1-1.

36 (c) "Commission", for purposes of IC 14-13-2, has the meaning set
37 forth in IC 14-13-2-2.

38 (d) "Commission", for purposes of IC 14-13-3, has the meaning set
39 forth in IC 14-13-3-1.

40 (e) "Commission", for purposes of IC 14-13-4, has the meaning set
41 forth in IC 14-13-4-1.

42 (f) "Commission", for purposes of IC 14-13-5, has the meaning set

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- 1 forth in IC 14-13-5-1.
- 2 (g) "Commission", for purposes of IC 14-13-6, has the meaning set
- 3 forth in IC 14-13-6-2.
- 4 (h) "Commission", for purposes of IC 14-14-1, has the meaning set
- 5 forth in IC 14-14-1-3.
- 6 ~~(i) "Commission"; for purposes of IC 14-20-4, has the meaning set~~
- 7 ~~forth in IC 14-20-4-1.~~
- 8 ~~(j)~~ (i) "Commission", for purposes of IC 14-20-11, has the meaning
- 9 set forth in IC 14-20-11-1.
- 10 ~~(k)~~ (j) "Commission", for purposes of IC 14-21-4, has the meaning
- 11 set forth in IC 14-21-4-1.
- 12 ~~(l)~~ (k) "Commission", for purposes of IC 14-25-11, has the meaning
- 13 set forth in IC 14-25-11-1.
- 14 ~~(m)~~ (l) "Commission", for purposes of IC 14-28-4, has the meaning
- 15 set forth in IC 14-28-4-1.
- 16 ~~(n)~~ (m) "Commission", for purposes of IC 14-30-1, has the meaning
- 17 set forth in IC 14-30-1-2.
- 18 ~~(o)~~ (n) "Commission", for purposes of IC 14-30-2, has the meaning
- 19 set forth in IC 14-30-2-2.
- 20 ~~(p)~~ (o) "Commission", for purposes of IC 14-30-3, has the meaning
- 21 set forth in IC 14-30-3-2.
- 22 ~~(q)~~ (p) "Commission", for purposes of IC 14-30-4, has the meaning
- 23 set forth in IC 14-30-4-2.
- 24 ~~(r)~~ (q) "Commission", for purposes of IC 14-33-20, has the meaning
- 25 set forth in IC 14-33-20-2.
- 26 SECTION 37. IC 16-18-2-84 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 84. "Council" refers to
- 28 the following:
- 29 (1) For purposes of IC 16-21, the hospital council.
- 30 ~~(2) For purposes of IC 16-25 and IC 16-27, the home health care~~
- 31 ~~services and hospice services council.~~
- 32 ~~(3)~~ (2) For purposes of IC 16-28 and IC 16-29, the Indiana health
- 33 facilities, **home health care, and hospice** council.
- 34 ~~(4)~~ (3) For purposes of IC 16-46-6, the interagency state council
- 35 on black and minority health.
- 36 SECTION 38. IC 16-18-2-150, AS AMENDED BY P.L.152-2005,
- 37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2011]: Sec. 150. (a) "Governing body", for purposes of
- 39 IC 16-22-7, has the meaning set forth in IC 16-22-7-2.
- 40 ~~(b) "Governing body"; for purposes of IC 16-27-0.5, has the~~
- 41 ~~meaning set forth in IC 16-27-0.5-0.5.~~
- 42 ~~(c)~~ (b) "Governing body", for purposes of IC 16-41-22, has the

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1 meaning set forth in IC 16-41-22-3.

2 SECTION 39. IC 16-21-1-8 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. For that part of a
4 hospital that functions as a health facility described by IC 16-28,
5 IC 16-28 applies. The **Indiana** health facilities, **home health care, and**
6 **hospice** council does not have greater authority to adopt rules
7 concerning facilities that are licensed under this article than the health
8 facilities council has with regard to health facilities licensed under
9 IC 16-28.

10 SECTION 40. IC 16-25-3-2.5 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. The state
12 department shall administer this chapter with the advice of the ~~home~~
13 ~~health care services and hospice services council established by~~
14 ~~IC 16-27-0.5-1.~~ **health facilities, home health care, and hospice**
15 **council established by IC 16-28-1-1.**

16 SECTION 41. IC 16-28-1-1, AS AMENDED BY P.L.1-2007,
17 SECTION 133, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The Indiana health facilities,
19 **home health care, and hospice** council is created. The council
20 consists of ~~fourteen (14)~~ **sixteen (16)** members as follows:

21 (1) One (1) **physician licensed physician under IC 25-22.5 with**
22 **experience in long term care or hospice and palliative**
23 **medicine.**

24 (2) ~~Two (2)~~ **One (1) administrator**, licensed
25 under IC 25-19-1, of a proprietary health facility licensed under
26 this article.

27 (3) One (1) administrator, licensed under IC 25-19-1, of a
28 nonproprietary health facility licensed under this article.

29 (4) **One (1) administrator, licensed under IC 25-19-1, of a**
30 **residential care facility licensed under this article.**

31 (5) **One (1) administrator of a hospital based home health**
32 **agency licensed under IC 16-27.**

33 (6) **One (1) administrator of a nonhospital based home health**
34 **agency licensed under IC 16-27.**

35 (7) **One (1) administrator or director of a hospital based**
36 **hospice agency licensed under IC 16-25.**

37 (8) **One (1) administrator or director of a nonhospital based**
38 **hospice agency licensed under IC 16-25.**

39 (4) (9) **One (1) registered nurse licensed under IC 25-23 who has**
40 **experience with a licensed health facility, licensed home health**
41 **agency, or licensed hospice agency.**

42 (5) (10) **One (1) registered pharmacist licensed under IC 25-26**

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1 **with experience in long term care or hospice and palliative**
 2 **medicine.**

3 ~~(6) Two (2) citizens having knowledge or experience in the field~~
 4 ~~of gerontology.~~

5 ~~(7) One (1) representative of a statewide senior citizens~~
 6 ~~organization.~~

7 ~~(8) (11) One (1) citizen individual having knowledge or~~
 8 ~~experience in the field of mental health, bereavement~~
 9 ~~counseling, or Alzheimer's disease and related senile~~
 10 ~~dementia.~~

11 ~~(9) One (1) nurse-educator of a practical nurse program.~~

12 ~~(10) (12) The commissioner.~~

13 ~~(11) (13) The director of the division of family resources state~~
 14 ~~long term care ombudsman or the director's ombudsman's~~
 15 ~~designee.~~

16 ~~(12) (14) The director of the division of aging or the director's~~
 17 ~~designee.~~

18 **(15) One (1) individual having knowledge of or experience in**
 19 **health care quality improvement, patient safety, or health**
 20 **care law.**

21 **(16) One (1) individual who is a health care educator in a**
 22 **nursing, allied health, or medical profession and who has**
 23 **experience in an accredited college or university in a health**
 24 **care education program.**

25 (b) The members of the council designated by subsection (a)(1)
 26 through ~~(a)(9)~~ **(a)(11) and subsection (a)(15) and (a)(16)** shall be
 27 appointed by the governor.

28 (c) Except for the members of the council designated by subsection
 29 ~~(a)(10)~~ **(a)(12) through (a)(12); (a)(14),** all appointments are for four
 30 (4) years. If a vacancy occurs, the appointee serves for the remainder
 31 of the unexpired term. A vacancy is filled from the same group that was
 32 represented by the outgoing member.

33 (d) Except for the members of the council designated by subsection
 34 (a)(2) through (a)(3), a member of the council may not have a
 35 pecuniary interest in the operation of or provide professional services
 36 through employment or under contract to a facility licensed under this
 37 article.

38 SECTION 42. IC 16-28-1-5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) ~~Eight (8)~~ **Nine**
 40 **(9)** members of the council constitute a quorum for the transaction of
 41 all business of the council.

42 (b) The council shall establish procedures to govern the council's

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1 deliberations.

2 SECTION 43. IC 16-28-1-8.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2011]: **Sec. 8.5. (a) Subject to the rulemaking
5 authority granted in IC 16-25 and IC 16-27, the council shall do the
6 following:**

7 **(1) Propose the adoption of rules by the state department
8 under IC 4-22-2 governing the following:**

9 **(A) Health and sanitation standards necessary to protect
10 the health, safety, security, rights, and welfare of home
11 health care patients and hospice patients.**

12 **(B) Qualifications of applicants for licenses issued under
13 IC 16-25 and IC 16-27.**

14 **(2) Recommend to other state agencies or governing bodies
15 rules necessary to protect the health, safety, security, rights,
16 and welfare of home health care patients and hospice patients.**

17 **(3) Act as an advisory body for the division, state health
18 commissioner, and state department.**

19 **(b) The council may recommend interpretive guidelines when
20 necessary to assist a home health agency or hospice in meeting the
21 requirements of a rule.**

22 **(c) The state department may request the council to propose a
23 new rule or an amendment to a rule necessary to protect the
24 health, safety, security rights, and welfare of the home health care
25 patients and hospice patients. If the council does not propose a rule
26 within ninety (90) days after the state department's request, the
27 state department may propose the rule. The executive board shall
28 consider rules proposed by the council under this section. The
29 executive board may adopt, modify, remand, or reject specific
30 rules or parts of rules proposed by the council. To become
31 effective, all rules proposed by the council under this chapter must
32 be adopted by the executive board in accordance with IC 4-22-2.**

33 SECTION 44. IC 16-29-4-3 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. The Indiana health
35 facilities, **home health care, and hospice** council may recommend,
36 before the conversion of existing health facility beds to ICF/MR beds
37 or the construction of a new ICF/MR facility, that the state department
38 issue a preliminary approval of the proposed project, but only if the
39 council determines that there is an insufficient number of available
40 beds to care for all the persons who are determined under IC 12-11-2.1
41 to be appropriate for placement in an ICF/MR facility.

42 SECTION 45. IC 16-29-4-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. A proposed project
2 that receives preliminary approval under this chapter may not add more
3 beds than the number determined by the Indiana health facilities, **home**
4 **health care, and hospice** council to be necessary to provide an
5 available bed for each person determined under IC 12-11-2.1 to be
6 appropriate for placement in an ICF/MR facility. Upon completion of
7 the proposed project and compliance with the other requirements for
8 licensure under IC 16-28, the state department shall issue a license to
9 the facility.

10 SECTION 46. IC 25-19-1-5, AS AMENDED BY P.L.54-2007,
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2011]: Sec. 5. (a) The Indiana health facilities, **home health**
13 **care, and hospice** council, pursuant to authority provided by IC 16-28,
14 has, by rule duly promulgated, classified health facilities into
15 comprehensive health facilities and residential health facilities. The fee
16 for a health facility administrator's license in either classification shall
17 be set by the board under section 8 of this chapter.

18 (b) Such fee and application shall be submitted to the board, and the
19 board shall transmit all such funds so received to the treasurer of state
20 to be deposited by ~~him~~ **the treasurer of state** in the general fund of the
21 state. All expenses incurred in the administration of this chapter shall
22 be paid from the general fund upon appropriation being made therefor
23 in the manner provided by law for making such appropriations.

24 (c) The administrator of a comprehensive care facility must have a
25 comprehensive care facility administrator license issued by the board
26 in accordance with rules adopted under section 8 of this chapter.

27 (d) The administrator of a residential care facility must have one (1)
28 of the following licenses issued by the board under rules adopted under
29 section 8 of this chapter:

- 30 (1) A comprehensive care facility administrator license.
- 31 (2) A residential care facility administrator license.

32 SECTION 47. THE FOLLOWING ARE REPEALED [EFFECTIVE
33 JULY 1, 2011]: IC 4-15-1-1; IC 4-15-2-2.2; IC 4-15-2.5-2; IC 9-23-1;
34 IC 9-27-2-12; IC 12-15-42; IC 14-20-4; IC 16-27-0.5; IC 27-1-3-30.

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