

# HOUSE BILL No. 1360

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-8; IC 20-26-5-4.

**Synopsis:** School corporation health coverage. Requires that health insurance coverage provided by a school corporation to active and retired certificated employees of the school corporation must be provided through participation in a state employee health plan. Prohibits the state from paying any part of the cost of the school corporation employee coverage. Makes conforming amendments.

**Effective:** July 1, 2011.

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**Turner**

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January 20, 2011, read first time and referred to Committee on Education.

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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. 1360

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

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

1 SECTION 1. IC 5-10-8-2.6, AS AMENDED BY P.L.182-2009(ss),  
2 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 2.6. (a) This section applies only to local unit  
4 public employers and their employees. This section does not apply to  
5 public safety employees, surviving spouses, and dependents covered by  
6 section 2.2 of this chapter.

7 (b) A public employer may provide programs of group insurance for  
8 its employees and retired employees. The public employer may,  
9 however, exclude part-time employees and persons who provide  
10 services to the unit under contract from any group insurance coverage  
11 that the public employer provides to the employer's full-time  
12 employees. A public employer may provide programs of group health  
13 insurance under this section through one (1) of the following methods:

- 14 (1) By purchasing policies of group insurance.
- 15 (2) By establishing self-insurance programs.
- 16 (3) By electing to participate in the local unit group of local units  
17 that offer the state employee health plan under section 6.6 of this



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chapter.

(4) If the local unit public employer is a school corporation, by **one (1) or both of the following:**

**(A) Providing the coverage for the school corporation's active and retired certificated employees only through a state employee health plan under section 6.8 of this chapter.**

**(B) Electing to provide the coverage for the school corporation's active and retired employees who are not described in clause (A) through a state employee health plan under section 6.7 of this chapter.**

A public employer may provide programs of group insurance other than group health insurance under this section by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(c) A public employer may pay a part of the cost of group insurance, but shall pay a part of the cost of group life insurance for local employees. A public employer may pay, as supplemental wages, an amount equal to the deductible portion of group health insurance as long as payment of the supplemental wages will not result in the payment of the total cost of the insurance by the public employer.

(d) An insurance contract for local employees under this section may not be canceled by the public employer during the policy term of the contract.

(e) After June 30, 1986, a public employer shall provide a group health insurance program under subsection (g) to each retired employee:

(1) whose retirement date is:

(A) after May 31, 1986, for a retired employee who was a teacher (as defined in IC 20-18-2-22) for a school corporation; or

(B) after June 30, 1986, for a retired employee not covered by clause (A);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which must have been completed immediately preceding the retirement date; and

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1 (4) who will have completed at least fifteen (15) years of  
 2 participation in the retirement plan of which the employee is a  
 3 member on or before the employee's retirement date.

4 (f) A group health insurance program required by subsection (e)  
 5 must be equal in coverage to that offered active employees and must  
 6 permit the retired employee to participate if the retired employee pays  
 7 an amount equal to the total of the employer's and the employee's  
 8 premiums for the group health insurance for an active employee and if  
 9 the employee, within ninety (90) days after the employee's retirement  
 10 date, files a written request with the employer for insurance coverage.  
 11 However, the employer may elect to pay any part of the retired  
 12 employee's premiums.

13 (g) A retired employee's eligibility to continue insurance under  
 14 subsection (e) ends when the employee becomes eligible for Medicare  
 15 coverage as prescribed by 42 U.S.C. 1395 et seq., or when the  
 16 employer terminates the health insurance program. A retired employee  
 17 who is eligible for insurance coverage under subsection (e) may elect  
 18 to have the employee's spouse covered under the health insurance  
 19 program at the time the employee retires. If a retired employee's spouse  
 20 pays the amount the retired employee would have been required to pay  
 21 for coverage selected by the spouse, the spouse's subsequent eligibility  
 22 to continue insurance under this section is not affected by the death of  
 23 the retired employee. The surviving spouse's eligibility ends on the  
 24 earliest of the following:

25 (1) When the spouse becomes eligible for Medicare coverage as  
 26 prescribed by 42 U.S.C. 1395 et seq.  
 27 (2) When the employer terminates the health insurance program.  
 28 (3) Two (2) years after the date of the employee's death.  
 29 (4) The date of the spouse's remarriage.

30 (h) This subsection does not apply to an employee who is entitled  
 31 to group insurance coverage under IC 20-28-10-2(b). An employee  
 32 who is on leave without pay is entitled to participate for ninety (90)  
 33 days in any group health insurance program maintained by the public  
 34 employer for active employees if the employee pays an amount equal  
 35 to the total of the employer's and the employee's premiums for the  
 36 insurance. However, the employer may pay all or part of the employer's  
 37 premium for the insurance.

38 (i) A public employer may provide group health insurance for  
 39 retired employees or their spouses not covered by subsections (e)  
 40 through (g) and may provide group health insurance that contains  
 41 provisions more favorable to retired employees and their spouses than  
 42 required by subsections (e) through (g). A public employer may

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1 provide group health insurance to an employee who is on leave without  
 2 pay for a longer period than required by subsection (h), and may  
 3 continue to pay all or a part of the employer's premium for the  
 4 insurance while the employee is on leave without pay.

5 SECTION 2. IC 5-10-8-6.7, AS AMENDED BY P.L.109-2010,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2011]: Sec. 6.7. **(a) This section applies only to active and  
 8 retired employees of a school corporation who are not described in  
 9 section 6.8 of this chapter.**

10 ~~(a)~~ **(b)** As used in this section, "state employee health plan" means  
 11 a:

12 (1) self-insurance program established under section 7(b) of this  
 13 chapter; or

14 (2) contract with a prepaid health care delivery plan entered into  
 15 under section 7(c) of this chapter;

16 to provide group health coverage for state employees.

17 ~~(b)~~ **(c)** The state personnel department shall allow a school  
 18 corporation to elect to provide coverage of health care services for  
 19 active and retired employees of the school corporation under any state  
 20 employee health plan. If a school corporation elects to provide  
 21 coverage of health care services for active and retired employees of the  
 22 school corporation under a state employee health plan, it must provide  
 23 coverage for all active and retired employees of the school corporation  
 24 under the state employee health plan (other than any employees  
 25 covered by an Indiana comprehensive health insurance association  
 26 policy or individuals who retire from the school corporation before July  
 27 1, 2010) if coverage was provided for these employees under the prior  
 28 policies.

29 ~~(c)~~ **(d)** The following apply if a school corporation elects to provide  
 30 coverage for active and retired employees of the school corporation  
 31 under subsection ~~(b)~~: **(c)**:

32 (1) The state shall not pay any part of the cost of the coverage.

33 (2) The coverage provided to an active or retired school  
 34 corporation employee under this section must be the same as the  
 35 coverage provided to an active or retired state employee under the  
 36 state employee health plan.

37 (3) Notwithstanding sections 2.2 and 2.6 of this chapter:

38 (A) the school corporation shall pay for the coverage provided  
 39 to an active or retired school corporation employee under this  
 40 section an amount not more than the amount paid by the state  
 41 for coverage provided to an active or retired state employee  
 42 under the state employee health plan; and

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1 (B) an active or retired school corporation employee shall pay  
 2 for the coverage provided to the active or retired school  
 3 corporation employee under this section an amount that is at  
 4 least equal to the amount paid by an active or retired state  
 5 employee for coverage provided to the active or retired state  
 6 employee under the state employee health plan.

7 However, this subdivision does not apply to contractual  
 8 commitments made by a school corporation to individuals who  
 9 retire before July 1, 2010.

10 (4) The school corporation shall pay any administrative costs of  
 11 the school corporation's participation in the state employee health  
 12 plan.

13 (5) The school corporation shall provide the coverage elected  
 14 under subsection ~~(b)~~ (c) for a period of at least three (3) years  
 15 beginning on the date the coverage of the school corporation  
 16 employees under the state employee health plan begins.

17 ~~(d)~~ (e) The state personnel department shall provide an enrollment  
 18 period at least every thirty (30) days for a school corporation that elects  
 19 to provide coverage under subsection ~~(b)~~ (c).

20 ~~(e)~~ (f) The state personnel department may adopt rules under  
 21 IC 4-22-2 to implement this section.

22 ~~(f)~~ (g) Neither this section nor a school corporation's election to  
 23 participate in a state employee health plan as provided in this section  
 24 impairs the rights of an exclusive representative of the ~~certificated or~~  
 25 noncertificated employees of the school corporation to collectively  
 26 bargain all matters related to school employee health insurance  
 27 programs and benefits.

28 SECTION 3. IC 5-10-8-6.8 IS ADDED TO THE INDIANA CODE  
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 30 1, 2011]: **Sec. 6.8. (a) This section applies to a:**

31 **(1) collective bargaining agreement that is entered into,**  
 32 **amended, or renewed; and**

33 **(2) state employee health plan that is established, entered into,**  
 34 **amended, or renewed;**

35 **after June 30, 2011. This subsection expires June 30, 2016.**

36 **(b) As used in this section, "state employee health plan" means**  
 37 **a:**

38 **(1) self-insurance program established under section 7(b) of**  
 39 **this chapter; or**

40 **(2) contract with a prepaid health care delivery plan entered**  
 41 **into under section 7(c) of this chapter;**

42 **to provide group health coverage for state employees.**

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**(c) Notwithstanding any other law, a school corporation that provides group health insurance to the school corporation's active and retired certificated employees shall provide the group health insurance through a state employee health plan.**

**(d) The state personnel department shall provide for a school corporation to provide the coverage through a state employee health plan as required under subsection (c).**

**(e) A school corporation shall provide for payment of the cost of the coverage as provided in section 2.6 of this chapter. However, an active or retired certificated employee of a school corporation shall pay not more than the amount that an active or retired state employee pays for the same coverage. The state shall not pay any part of the cost of the coverage.**

**(f) The state personnel department may adopt rules under IC 4-22-2 to implement this section.**

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

- (1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.
- (2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.
- (3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based on the school corporation's previous year's ADM, to promote the best interests of the school corporation through:
  - (A) the purchase of meals, decorations, memorabilia, or awards;
  - (B) provision for expenses incurred in interviewing job applicants; or
  - (C) developing relations with other governmental units.
- (4) To:
  - (A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate

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

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

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

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts specified under the powers authorized under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is

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1 not necessary for school purposes, in accordance with IC 20-26-7,  
2 to demolish or otherwise dispose of the property if, in the opinion  
3 of the governing body, the property is not necessary for school  
4 purposes and is worthless, and to pay the expenses for the  
5 demolition or disposition.

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

- 9 (A) civic or public purposes; or
- 10 (B) the operation of a school age child care program for  
11 children who are at least five (5) years of age and less than  
12 fifteen (15) years of age that operates before or after the school  
13 day, or both, and during periods when school is not in session;  
14 if the property is not needed for school purposes. Under this  
15 subdivision, the governing body may enter into a long term lease  
16 with a nonprofit corporation, community service organization, or  
17 other governmental entity, if the corporation, organization, or  
18 other governmental entity will use the property to be leased for  
19 civic or public purposes or for a school age child care program.  
20 However, if payment for the property subject to a long term lease  
21 is made from money in the school corporation's debt service fund,  
22 all proceeds from the long term lease must be deposited in the  
23 school corporation's debt service fund so long as payment for the  
24 property has not been made. The governing body may, at the  
25 governing body's option, use the procedure specified in  
26 IC 36-1-11-10 in leasing property under this subdivision.

- 27 (8) To:
  - 28 (A) Employ, contract for, and discharge superintendents,  
29 supervisors, principals, teachers, librarians, athletic coaches  
30 (whether or not they are otherwise employed by the school  
31 corporation and whether or not they are licensed under  
32 IC 20-28-5), business managers, superintendents of buildings  
33 and grounds, janitors, engineers, architects, physicians,  
34 dentists, nurses, accountants, teacher aides performing  
35 noninstructional duties, educational and other professional  
36 consultants, data processing and computer service for school  
37 purposes, including the making of schedules, the keeping and  
38 analyzing of grades and other student data, the keeping and  
39 preparing of warrants, payroll, and similar data where  
40 approved by the state board of accounts as provided below,  
41 and other personnel or services as the governing body  
42 considers necessary for school purposes.

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- 1 (B) Fix and pay the salaries and compensation of persons and
- 2 services described in this subdivision.
- 3 (C) Classify persons or services described in this subdivision
- 4 and to adopt schedules of salaries or compensation.
- 5 (D) Determine the number of the persons or the amount of the
- 6 services employed or contracted for as provided in this
- 7 subdivision.
- 8 (E) Determine the nature and extent of the duties of the
- 9 persons described in this subdivision.
- 10 The compensation, terms of employment, and discharge of
- 11 teachers are, however, subject to and governed by the laws
- 12 relating to employment, contracting, compensation, and discharge
- 13 of teachers. The compensation, terms of employment, and
- 14 discharge of bus drivers are subject to and governed by laws
- 15 relating to employment, contracting, compensation, and discharge
- 16 of bus drivers. The forms and procedures relating to the use of
- 17 computer and data processing equipment in handling the financial
- 18 affairs of the school corporation must be submitted to the state
- 19 board of accounts for approval so that the services are used by the
- 20 school corporation when the governing body determines that it is
- 21 in the best interest of the school corporation while at the same
- 22 time providing reasonable accountability for the funds expended.
- 23 (9) Notwithstanding the appropriation limitation in subdivision
- 24 (3), when the governing body by resolution considers a trip by an
- 25 employee of the school corporation or by a member of the
- 26 governing body to be in the interest of the school corporation,
- 27 including attending meetings, conferences, or examining
- 28 equipment, buildings, and installation in other areas, to permit the
- 29 employee to be absent in connection with the trip without any loss
- 30 in pay and to reimburse the employee or the member the
- 31 employee's or member's reasonable lodging and meal expenses
- 32 and necessary transportation expenses. To pay teaching personnel
- 33 for time spent in sponsoring and working with school related trips
- 34 or activities.
- 35 (10) To transport children to and from school, when in the
- 36 opinion of the governing body the transportation is necessary,
- 37 including considerations for the safety of the children and without
- 38 regard to the distance the children live from the school. The
- 39 transportation must be otherwise in accordance with applicable
- 40 law.
- 41 (11) To provide a lunch program for a part or all of the students
- 42 attending the schools of the school corporation, including the

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1 establishment of kitchens, kitchen facilities, kitchen equipment,  
 2 lunch rooms, the hiring of the necessary personnel to operate the  
 3 lunch program, and the purchase of material and supplies for the  
 4 lunch program, charging students for the operational costs of the  
 5 lunch program, fixing the price per meal or per food item. To  
 6 operate the lunch program as an extracurricular activity, subject  
 7 to the supervision of the governing body. To participate in a  
 8 surplus commodity or lunch aid program.

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

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

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

19 (15) To purchase insurance or to establish and maintain a  
 20 program of self-insurance relating to the liability of the school  
 21 corporation or the school corporation's employees in connection  
 22 with motor vehicles or property and for additional coverage to the  
 23 extent permitted and in accordance with IC 34-13-3-20. To  
 24 purchase additional insurance or to establish and maintain a  
 25 program of self-insurance protecting the school corporation and  
 26 members of the governing body, employees, contractors, or agents  
 27 of the school corporation from liability, risk, accident, or loss  
 28 related to school property, school contract, school or school  
 29 related activity, including the purchase of insurance or the  
 30 establishment and maintenance of a self-insurance program  
 31 protecting persons described in this subdivision against false  
 32 imprisonment, false arrest, libel, or slander for acts committed in  
 33 the course of the persons' employment, protecting the school  
 34 corporation for fire and extended coverage and other casualty  
 35 risks to the extent of replacement cost, loss of use, and other  
 36 insurable risks relating to property owned, leased, or held by the  
 37 school corporation. To:

38 (A) participate in a state employee health plan under  
 39 IC 5-10-8-6.6, or IC 5-10-8-6.7, or **IC 5-10-8-6.8;**

40 (B) purchase insurance; or

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

42 to benefit school corporation employees, including accident,

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sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

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

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

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

- (A) for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body; and
- (B) that may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

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

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

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1 out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12,  
2 and IC 20-48-1 by specific language or by reference to other law.

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