

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 2011 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1123

AN ACT to amend the Indiana Code concerning pensions and to make an appropriation.

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

SECTION 1. IC 4-3-22-18.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 18.2. The OMB shall, not later than December 1 each year, submit to the budget committee the following reports concerning post-employment benefits (as defined in IC 5-10-16-5):**

- (1) The report prepared by the OMB for state agencies under IC 5-10-16-7.**
- (2) Reports received from state educational institutions under IC 21-38-3-13.**

SECTION 2. IC 5-10-8-6, AS AMENDED BY P.L.229-2011, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The state police department, conservation officers of the department of natural resources, and the state excise police may establish common and unified plans of self-insurance for their employees, including retired employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation. **Any modification to:**

- (1) eligibility requirements;**
- (2) required premiums; or**
- (3) any other plan provisions;**



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that increases the amount of the state's contribution to the plan or that increases the post-employment liability under the plan may not be made unless the modification is approved by the budget agency with an annual review of the modifications by the budget committee.

(b) Except as provided in this section and IC 5-10-14, the state agencies listed in subsection (a) may not pay as the employer part of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

(c) This subsection applies to a health benefit plan for an individual described in subsection (a). After June 30, 2011, at least one (1) time in each state fiscal year, the budget agency shall determine the average amount of contributions made under IC 5-10-8.5-15 and IC 5-10-8.5-16 to participants in a health reimbursement arrangement or other separate fund under IC 5-10-8.5 in the immediately preceding state fiscal year. In the state fiscal year beginning July 1, 2011, the amount determined under this section must exclude contributions made to persons described in IC 5-10-8.5-15(c) and IC 5-10-8.5-16(f). An amount equal to the average amount determined under this subsection multiplied by the number of participants (other than retired participants) in the plans described in subsection (a) shall be transferred to the plans described in subsection (a). The amount transferred under this subsection shall be proportionally allocated to each plan relative to the number of members in each plan. The amount allocated to a plan under this subsection shall be allocated among the participants in the plan in the same manner as other employer contributions. Funds shall be used only to reduce unfunded other post-employment benefit (OPEB) liability and not to increase benefits or reduce premiums.

(d) Trust funds may be established to carry out the purposes of this section. A trust fund established under this subsection is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from a trust fund established under this subsection by the state board of finance, the budget agency, or any other state agency. Money in a trust fund established under this subsection does not revert to the state general fund at the end of any state fiscal year. A trust fund established under this subsection consists of appropriations, revenues, or transfers to the trust fund under IC 4-12-1. Contributions to a trust fund established under this subsection are irrevocable. A trust fund established under this subsection must be limited to providing prefunding of annual required contributions and to cover OPEB liability for covered individuals. Funds may be

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used only for these purposes and not to increase benefits or reduce premiums. A trust fund established under this subsection shall be established to comply with and be administered in a manner that satisfies the Internal Revenue Code requirements concerning a trust fund for prefunding annual required contributions and for covering OPEB liability for covered individuals. All assets in a trust fund established under this subsection:

- (1) are dedicated exclusively to providing benefits to covered individuals and their beneficiaries according to the terms of the health plan; and
- (2) are exempt from levy, sale, garnishment, attachment, or other legal process.

A trust fund established under this subsection shall be administered by the agency employing the covered individuals. The expenses of administering a trust fund established under this subsection shall be paid from money in the trust fund. The treasurer of state shall invest the money in a trust fund established under this subsection not currently needed to meet the obligations of the trust fund in the same manner as other public money may be invested.

SECTION 3. IC 5-10-8-7, AS AMENDED BY P.L.2-2007, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) The state, excluding state educational institutions, may not purchase or maintain a policy of group insurance, except:

- (1) life insurance for the state's employees;
- (2) long term care insurance under a long term care insurance policy (as defined in IC 27-8-12-5), for the state's employees;
- (3) an accident and sickness insurance policy (as defined in IC 27-8-5.6-1) that covers individuals to whom coverage is provided by a local unit under section 6.6 of this chapter; or
- (4) an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan.

(b) With the consent of the governor, the state personnel department may establish self-insurance programs to provide group insurance other than life or long term care insurance for state employees and retired state employees. The state personnel department may contract with a private agency, business firm, limited liability company, or corporation for administrative services. A commission may not be paid for the placement of the contract. The department may require, as part of a contract for administrative services, that the provider of the administrative services offer to an employee terminating state



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employment the option to purchase, without evidence of insurability, an individual policy of insurance.

(c) Notwithstanding subsection (a), with the consent of the governor, the state personnel department may contract for health services for state employees and individuals to whom coverage is provided by a local unit under section 6.6 of this chapter through one (1) or more prepaid health care delivery plans.

(d) The state personnel department shall adopt rules under IC 4-22-2 to establish long term and short term disability plans for state employees (except employees who hold elected offices (as defined by IC 3-5-2-17)). The plans adopted under this subsection may include any provisions the department considers necessary and proper and must:

- (1) require participation in the plan by employees with six (6) months of continuous, full-time service;
- (2) require an employee to make a contribution to the plan in the form of a payroll deduction;
- (3) require that an employee's benefits under the short term disability plan be subject to a thirty (30) day elimination period and that benefits under the long term plan be subject to a six (6) month elimination period;
- (4) prohibit the termination of an employee who is eligible for benefits under the plan;
- (5) provide, after a seven (7) day elimination period, eighty percent (80%) of base biweekly wages for an employee disabled by injuries resulting from tortious acts, as distinguished from passive negligence, that occur within the employee's scope of state employment;
- (6) provide that an employee's benefits under the plan may be reduced, dollar for dollar, if the employee derives income from:
 - (A) Social Security;
 - (B) the public employees' retirement fund;
 - (C) the Indiana state teachers' retirement fund;
 - (D) pension disability;
 - (E) worker's compensation;
 - (F) benefits provided from another employer's group plan; or
 - (G) remuneration for employment entered into after the disability was incurred.

(The department of state revenue and the department of workforce development shall cooperate with the state personnel department to confirm that an employee has disclosed complete and accurate information necessary to administer subdivision (6).);

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(7) provide that an employee will not receive benefits under the plan for a disability resulting from causes specified in the rules; and

(8) provide that, if an employee refuses to:

(A) accept work assignments appropriate to the employee's medical condition;

(B) submit information necessary for claim administration; or

(C) submit to examinations by designated physicians;

the employee forfeits benefits under the plan.

(e) This section does not affect insurance for retirees under IC 5-10.3 or IC 5-10.4.

(f) The state may pay part of the cost of self-insurance or prepaid health care delivery plans for its employees.

(g) A state agency may not provide any insurance benefits to its employees that are not generally available to other state employees, unless specifically authorized by law.

(h) The state may pay a part of the cost of group medical and life coverage for its employees.

(i) To carry out the purposes of this section, a trust fund may be established. The trust fund established under this subsection is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the trust fund established under this subsection by the state board of finance, the budget agency, or any other state agency. Money in a trust fund established under this subsection does not revert to the state general fund at the end of any state fiscal year. The trust fund established under this subsection consists of appropriations, revenues, or transfers to the trust fund under IC 4-12-1. Contributions to the trust fund are irrevocable. The trust fund must be limited to providing prefunding of annual required contributions and to cover OPEB liability for covered individuals. Funds may be used only for these purposes and not to increase benefits or reduce premiums. The trust fund shall be established to comply with and be administered in a manner that satisfies the Internal Revenue Code requirements concerning a trust fund for prefunding annual required contributions and for covering OPEB liability for covered individuals. All assets in the trust fund established under this subsection:

(1) are dedicated exclusively to providing benefits to covered individuals and their beneficiaries according to the terms of the health plan; and

(2) are exempt from levy, sale, garnishment, attachment, or

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other legal process.

The trust fund established under this subsection shall be administered by the state personnel department. The expenses of administering the trust fund shall be paid from money in the trust fund. The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the trust fund in the same manner as other public money may be invested.

SECTION 4. IC 5-10-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 16. OPEB Reports

Sec. 1. This chapter applies to a state agency that provides or sponsors a post-employment benefit.

Sec. 2. As used in this chapter, "GASB" refers to the Governmental Accounting Standards Board.

Sec. 3. As used in this chapter, "OMB" refers to the office of management and budget established by IC 4-3-22-3.

Sec. 4. As used in this chapter, "OPEB" refers to a post-employment benefit.

Sec. 5. As used in this chapter, "post-employment benefit" means any of the following:

- (1) Health, prescription drug, dental, vision, and life insurance coverage for retired employees.
- (2) Long term care coverage, life insurance, and death benefits that are not offered as part of a pension or retirement plan.
- (3) Long term disability insurance for employees.
- (4) Any other benefit, other than a pension or retirement plan, or a termination incentive, provided to a former employee.

Sec. 6. As used in this section, "state agency" has the meaning set forth in IC 6-1.1-1-18.

Sec. 7. Each state agency shall cooperate with the OMB and provide to the OMB the information necessary for the OMB to prepare an OPEB report for state agencies. Each state agency shall provide information required under GASB Statements 43 and 45 and any other information requested by the OMB or the budget committee.

SECTION 5. IC 21-38-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 13.** A state educational institution that provides or sponsors a post-employment benefit (as defined in IC 5-10-16-5) shall submit to the office of management and budget not later than

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November 1 each year an OPEB (as defined in IC 5-10-16-4) report for the state educational institution. Each state educational institution shall provide information required under GASB Statements 43 and 45 and any other information requested by the OMB or the budget committee.

SECTION 6. [EFFECTIVE JUNE 20, 2012] (a) As used in this SECTION, "fund" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.

(b) Not later than October 1, 2012, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled on or before December 1, 2011, and who is entitled to receive a monthly benefit on July 1, 2012. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	The Amount Is:
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	\$150
At least 10 years, but less than 20 years	\$275
At least 20 years, but less than 30 years	\$375
At least 30 years	\$450

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4, except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) If two (2) or more survivors or beneficiaries of a member are entitled to an amount paid under this SECTION, the amount shall be allocated to the survivors or beneficiaries in shares using the same percentages as the percentages determined under IC 5-10.2-3-7.5 or IC 5-10.4-4-10 to pay the monthly benefit to the survivors or beneficiaries.

(f) There is appropriated for the state fiscal year beginning July 1, 2012, to the Indiana public retirement system nineteen million six hundred thousand dollars (\$19,600,000) from the state general fund for deposit in the fund to cover the amounts paid under this SECTION.



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(g) This SECTION expires January 1, 2013.

SECTION 7. [EFFECTIVE JUNE 20, 2012] (a) As used in this SECTION, "fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.

(b) Not later than October 1, 2012, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled on or before December 1, 2011, and who is entitled to receive a monthly benefit on July 1, 2012. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	The Amount Is:
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At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	\$150
At least 10 years, but less than 20 years	\$275
At least 20 years, but less than 30 years	\$375
At least 30 years	\$450

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4, except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) If two (2) or more survivors or beneficiaries of a member are entitled to an amount paid under this SECTION, the amount shall be allocated to the survivors or beneficiaries in shares using the same percentages as the percentages determined under IC 5-10.2-3-7.5 or IC 5-10.3-8-15 to pay the monthly benefit to the survivors or beneficiaries.

(f) This SECTION expires January 1, 2013.

SECTION 8. [EFFECTIVE JUNE 20, 2012] (a) As used in this SECTION, "participant" has the meaning set forth in IC 5-10-5.5-1.

(b) As used in this SECTION, "plan" refers to the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2.

(c) Not later than October 1, 2012, the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1 shall

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pay the amount determined under subsection (d) to a plan participant (or to a survivor or beneficiary of a plan participant) who retired or was disabled on or before December 1, 2011, and who is entitled to receive a monthly benefit on July 1, 2012. The amount is not an increase in the annual retirement allowance.

(d) The amount paid under this SECTION to a plan participant (or to a survivor or beneficiary of a plan participant) who meets the requirements of subsection (c) is determined as follows:

If a Plan Participant's Creditable Service Is:	The Amount Is:
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	\$125
At least 10 years, but less than 20 years	\$235
At least 20 years, but less than 30 years	\$325
At least 30 years	\$400

(e) The creditable service used to determine the amount paid to a plan participant (or a survivor or beneficiary of a plan participant) under this SECTION is the creditable service that was used to compute the plan participant's retirement allowance under IC 5-10-5.5-10 and IC 5-10-5.5-12, except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(f) If two (2) or more survivors of a plan participant are entitled to an amount paid under this SECTION, the amount shall be allocated to the survivors in shares using the same percentages as the percentages determined under IC 5-10-5.5-16 to pay the monthly benefit to the survivors.

(g) This SECTION expires January 1, 2013.

SECTION 9. [EFFECTIVE JUNE 20, 2012] (a) As used in this SECTION, "trustee" has the meaning set forth in IC 10-12-1-10.

(b) As used in this SECTION, "trust fund" has the meaning set forth in IC 10-12-1-11.

(c) Not later than October 1, 2012, the trustee shall pay from the trust fund to each employee beneficiary of the state police 1987 benefit system covered by IC 10-12-4 who:

- (1) retired or was disabled after June 30, 1987, and before July 2, 2011; and
- (2) is entitled to receive a monthly benefit as of September 1, 2012;

an amount equal to one percent (1%) of the maximum basic annual pension amount payable to a retired state police employee in the

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grade of trooper who has completed twenty-five (25) years of service as of July 1, 2012, as calculated under IC 10-12-4-7.

(d) The amount paid under this SECTION is not an increase in the monthly pension amount of an employee beneficiary.

(e) This SECTION expires January 1, 2013.

SECTION 10. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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