

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Appropriations, to which was referred House Bill No. 1123, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 pensions and to make an appropriation.
- 4 Replace the effective dates in SECTIONS 1 through 4 with
- 5 "[EFFECTIVE JUNE 20, 2012]".
- 6 Page 1, between the enacting clause and line 1, begin a new
- 7 paragraph and insert:
- 8 "SECTION 1. IC 4-3-22-18 IS ADDED TO THE INDIANA CODE
- 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 10 1, 2012]: **Sec. 18. The OMB shall, not later than December 1 each**
- 11 **year, submit to the state budget committee the following reports**
- 12 **concerning postemployment benefits (as defined in IC 5-10-16-5):**
- 13 **(1) The report prepared by the OMB for state agencies under**
- 14 **IC 5-10-16-7.**
- 15 **(2) Reports received from state educational institutions under**
- 16 **IC 21-38-3-13.**
- 17 SECTION 2. IC 5-10-8-6, AS AMENDED BY P.L.229-2011,
- 18 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2012]: Sec. 6. (a) The state police department, conservation
- 20 officers of the department of natural resources, and the state excise
- 21 police may establish common and unified plans of self-insurance for

1 their employees, including retired employees, as separate entities of
2 state government. These plans may be administered by a private
3 agency, business firm, limited liability company, or corporation. **Any**
4 **modification to:**

5 **(1) eligibility requirements;**

6 **(2) required premiums; or**

7 **(3) any other plan provisions;**

8 **that affects the amount of the state's contribution to the plan or**
9 **that affects the post-employment liability under the plan may not**
10 **be made unless modification is first reviewed by the state budget**
11 **committee and approved by the budget agency.**

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

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

35 **(d) Trust funds may be established to carry out the purposes of**
36 **this section. A trust fund established under this subsection is**
37 **considered a trust fund for purposes of IC 4-9.1-1-7. Money may**
38 **not be transferred, assigned, or otherwise removed from a trust**
39 **fund established under this subsection by the state board of**
40 **finance, the budget agency, or any other state agency. Money in a**
41 **trust fund established under this subsection does not revert to the**
42 **state general fund at the end of any state fiscal year. A trust fund**

1 established under this subsection consists of appropriations,
 2 revenues, or transfers to the trust fund under IC 4-12-1.
 3 Contributions to a trust fund established under this subsection are
 4 irrevocable. A trust fund established under this subsection must be
 5 limited to providing prefunding of annual required contributions
 6 and to cover OPEB liability for covered individuals. Funds may be
 7 used only for these purposes and not to increase benefits or reduce
 8 premiums. A trust fund established under this subsection shall be
 9 established to comply with and be administered in a manner that
 10 satisfies the Internal Revenue Code requirements concerning a
 11 trust fund for prefunding annual required contributions and for
 12 covering OPEB liability for covered individuals. All assets in a
 13 trust fund established under this subsection:

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

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

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

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

39 (b) With the consent of the governor, the state personnel department
 40 may establish self-insurance programs to provide group insurance other
 41 than life or long term care insurance for state employees and retired
 42 state employees. The state personnel department may contract with a

1 private agency, business firm, limited liability company, or corporation
2 for administrative services. A commission may not be paid for the
3 placement of the contract. The department may require, as part of a
4 contract for administrative services, that the provider of the
5 administrative services offer to an employee terminating state
6 employment the option to purchase, without evidence of insurability,
7 an individual policy of insurance.

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

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

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

- 1 disability was incurred.
- 2 (The department of state revenue and the department of workforce
3 development shall cooperate with the state personnel department
4 to confirm that an employee has disclosed complete and accurate
5 information necessary to administer subdivision (6).);
- 6 (7) provide that an employee will not receive benefits under the
7 plan for a disability resulting from causes specified in the rules;
8 and
- 9 (8) provide that, if an employee refuses to:
- 10 (A) accept work assignments appropriate to the employee's
11 medical condition;
- 12 (B) submit information necessary for claim administration; or
- 13 (C) submit to examinations by designated physicians;
- 14 the employee forfeits benefits under the plan.
- 15 (e) This section does not affect insurance for retirees under
16 IC 5-10.3 or IC 5-10.4.
- 17 (f) The state may pay part of the cost of self-insurance or prepaid
18 health care delivery plans for its employees.
- 19 (g) A state agency may not provide any insurance benefits to its
20 employees that are not generally available to other state employees,
21 unless specifically authorized by law.
- 22 (h) The state may pay a part of the cost of group medical and life
23 coverage for its employees.
- 24 **(i) To carry out the purposes of this section, a trust fund may be**
25 **established. The trust fund established under this subsection is**
26 **considered a trust fund for purposes of IC 4-9.1-1-7. Money may**
27 **not be transferred, assigned, or otherwise removed from the trust**
28 **fund established under this subsection by the state board of**
29 **finance, the budget agency, or any other state agency. Money in a**
30 **trust fund established under this subsection does not revert to the**
31 **state general fund at the end of any state fiscal year. The trust fund**
32 **established under this subsection consists of appropriations,**
33 **revenues, or transfers to the trust fund under IC 4-12-1.**
34 **Contributions to the trust fund are irrevocable. The trust fund**
35 **must be limited to providing prefunding of annual required**
36 **contributions and to cover OPEB liability for covered individuals.**
37 **Funds may be used only for these purposes and not to increase**
38 **benefits or reduce premiums. The trust fund shall be established to**
39 **comply with and be administered in a manner that satisfies the**
40 **Internal Revenue Code requirements concerning a trust fund for**
41 **prefunding annual required contributions and for covering OPEB**
42 **liability for covered individuals. All assets in the trust fund**

1 established under this subsection:

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

5 (2) are exempt from levy, sale, garnishment, attachment, or
6 other legal process.

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

13 SECTION 4. IC 5-10-16 IS ADDED TO THE INDIANA CODE AS
14 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2012]:

16 **Chapter 16. OPEB Reports**

17 **Sec. 1.** This chapter applies to a state agency that provides or
18 sponsors a postemployment benefit.

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

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

23 **Sec. 4.** As used in this chapter, "OPEB" refers to a
24 postemployment benefit.

25 **Sec. 5.** As used in this chapter, "postemployment benefit" means
26 any of the following:

27 (1) Health, prescription drug, dental, vision, and life insurance
28 coverage for retired employees.

29 (2) Long-term care coverage, life insurance, and death
30 benefits that are not offered as part of a pension or retirement
31 plan.

32 (3) Long-term disability insurance for employees.

33 (4) Any other benefit, other than a pension or retirement plan,
34 or a termination incentive, provided to a former employee.

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

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

1 SECTION 5. IC 21-38-3-13 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2012]: **Sec. 13. A state educational institution that provides or**
 4 **sponsors a postemployment benefit (as defined in IC 5-10-16-5)**
 5 **shall submit to the office of management and budget not later than**
 6 **November 1 each year an OPEB (as defined in IC 5-10-16-4) report**
 7 **for the state educational institution. Each state educational**
 8 **institution shall provide information required under GASB**
 9 **Statements 43 and 45 and any other information requested by the**
 10 **OMB or the state budget committee."**

11 Page 2, between lines 14 and 15, begin a new paragraph and insert:

12 **"(f) There is appropriated to the Indiana public retirement**
 13 **system nineteen million six hundred thousand dollars (\$19,600,000)**
 14 **from the state general fund for deposit in the fund to cover the**
 15 **amounts paid under this SECTION. The auditor of state shall**
 16 **make the distribution to the Indiana public retirement system**
 17 **before July 1, 2012."**

18 Page 2, line 15, delete "(f)" and insert "(g)".

19 Page 3, between lines 5 and 6, begin a new paragraph and insert:

20 **"(f) There is appropriated to the Indiana public retirement**
 21 **system eight million eight hundred thousand dollars (\$8,800,000)**
 22 **from the state general fund for deposit in the fund to cover the**
 23 **amounts paid under this SECTION regarding state employees. The**
 24 **auditor of state shall make the distribution to the Indiana public**
 25 **retirement system before July 1, 2012."**

26 Page 3, line 6, delete "(f)" and insert "(g)".

27 Page 3, line 14, after "Indiana" insert "public".

28 Page 3, after line 42, begin a new paragraph and insert:

29 **"(g) There is appropriated to the Indiana public retirement**
 30 **system sixty-one thousand dollars (\$61,000) from the state general**
 31 **fund for deposit in the plan to cover the amounts paid under this**
 32 **SECTION. The auditor of state shall make the distribution to the**
 33 **Indiana public retirement system before July 1, 2012."**

34 Page 4, line 1, delete "(g)" and insert "(h)".

35 Page 4, between lines 18 and 19, begin a new paragraph and insert:

36 **"(e) There is appropriated to the trustee one hundred fifty-seven**
 37 **thousand five hundred dollars (\$157,500) from the state general**
 38 **fund for deposit in the trust fund to cover the amounts paid under**
 39 **this SECTION. The auditor of state shall make the distribution to**
 40 **the trustee before July 1, 2012."**

41 Page 4, line 19, delete "(e)" and insert "(f)".

42 Page 4, after line 19, begin a new paragraph and insert:

- 1 "SECTION 10. **An emergency is declared for this act.**"
- 2 Renumber all SECTIONS consecutively.
(Reference is to HB 1123 as printed January 17, 2012.)

and when so amended that said bill do pass .

Committee Vote: Yeas 12, Nays 0.

Senator Kenley, Chairperson