Reprinted
March 26, 2013

ENGROSSED
SENATE BILL No. 248

DIGEST OF SB 248 (Updated March 25, 2013 4:17 pm - DI 102)

Citations Affected: IC 2-3.5; IC 5-10; IC 11-10; IC 22-2.

Synopsis: State pensions and wage payment and wage claims. Increases to 2% the amount of a state employee's base salary contributed during the first year the employee is automatically enrolled in the state's deferred compensation plan (plan), if that amount is greater than the maximum state match. (Currently, a state employee's contribution in the first year the employee is automatically enrolled in the plan is the greater of: (1) the maximum state match; or (2) 0.5% of the employee's base salary.) Provides that benefits and assets in the legislators' defined contribution fund (fund) are exempt from levy, sale, garnishment, attachment, or other legal process, and may not be assigned, except in relation to a qualified domestic relations order (order). Requires that a participant in the fund bear the costs, as determined by the Indiana public retirement system board, related to the fund's payment made under an order. Provides that criminal offenders in a facility operated by the department of correction or operated by a private operator under contract with the department of correction are exempt from certain provisions concerning the frequency of wage payment and wage claims.

Effective: Upon passage; July 1, 2013.

Walker, Schneider, Buck, Kruse
(HOUSE SPONSORS — STEUERWALD, NIEZGODSKI)

January 7, 2013, read first time and referred to Committee on Pensions and Labor.
January 24, 2013, reported favorably — Do Pass.
January 28, 2013, read second time, ordered engrossed. Engrossed.
January 29, 2013, read third time, call withdrawn.
January 31, 2013, read third time, passed. Yeas 37, nays 12.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Employment, Labor and Pensions.
March 21, 2013, amended, reported — Do Pass.
March 25, 2013, read second time, amended, ordered engrossed.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 248

A BILL FOR AN ACT to amend the Indiana Code concerning state pensions and wage payment and wage claims.

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

SECTION 1. IC 2-3.5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. All benefits and assets in the defined contribution fund are exempt from levy, sale, garnishment, attachment, or other legal process, **except for a qualified domestic relations order.** However, a participant's benefits may be transferred to reimburse the state for loss resulting from the participant's criminal taking of state property if the board receives adequate proof of the loss. The loss must be proven by conviction of a felony or misdemeanor.

SECTION 2. IC 2-3.5-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. **(a)** A participant or beneficiary may not assign any payment under this chapter except for:

(1) premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency; ~~and~~

(2) dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired participants in the legislators' defined benefit plan;

or

(3) a payment made under a qualified domestic relations order.

(b) A participant bears the costs, as determined by the board, related to the defined contribution fund's payment made under a qualified domestic relations order under subsection (a)(3).

SECTION 3. IC 5-10-1.1-3.5, AS AMENDED BY P.L.21-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3.5. (a) This section applies to an individual who becomes an employee of the state after June 30, 2007.

(b) Unless an employee notifies the state that the employee does not want to enroll in the deferred compensation plan, on day thirty-one (31) of the employee's employment:

(1) the employee is automatically enrolled in the deferred compensation plan; and

(2) the state is authorized to begin deductions as otherwise allowed under this chapter.

(c) The auditor of state shall provide written notice to an employee of the provisions of this chapter. The notice provided under this subsection must:

(1) be provided:

(A) with the employee's first paycheck; and

(B) on paper that is a color that is separate and distinct from the color of the employee's paycheck;

(2) contain a statement concerning:

(A) the purposes of;

(B) procedures for notifying the state that the employee does not want to enroll in;

(C) the tax consequences of; and

(D) the details of the state match for employee contribution to; the deferred compensation plan; and

(3) list the telephone number, electronic mail address, and other contact information for the auditor of state, who serves as plan administrator.

(d) This subsection applies to contributions made before July 1, 2011. Notwithstanding IC 22-2-6, except as provided by subsection ~~(g),~~ **(h),** the state shall deduct from an employee's compensation as a contribution to the deferred compensation plan established by the state under this chapter an amount equal to the maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this chapter.

(e) This subsection applies to contributions made after June 30,

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2011, **and before July 1, 2013.** Notwithstanding IC 22-2-6 and except as provided by subsection ~~(g),~~ **(h),** during the first year an employee is enrolled under subsection (b) in the deferred compensation plan, the state shall deduct each pay period from the employee's compensation as a contribution to the deferred compensation plan an amount equal to the greater of the following:

(1) The maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this chapter.

(2) One-half percent (0.5%) of the employee's base salary.

(f) This subsection applies to contributions made after June 30, 2013. Notwithstanding IC 22-2-6 and except as provided by subsection (h), during the first year an employee is enrolled under subsection (b) in the deferred compensation plan, the state shall deduct each pay period from the employee's compensation as a contribution to the deferred compensation plan an amount equal to the greater of the following:

(1) The maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this chapter.

(2) Two percent (2%) of the employee's base salary.

~~(f)~~ **(g)** This subsection applies to a year:

(1) after the first year in which an employee is enrolled in the deferred compensation plan; and

(2) in which the employee does not affirmatively choose a contribution amount under subsection ~~(g).~~ **(h).**

The percentage of the employee's base salary used for the year in subsection (e)(2) **or (f)(2)** to determine the employee's contribution increases by one-half percent (0.5%) from the percentage determined in the immediately preceding year. ~~for five (5) years.~~ The maximum percentage of an employee's base salary that may be deducted under this subsection is three percent (3%). The contribution increase occurs on the anniversary date of the employee's enrollment in the deferred compensation plan.

~~(g)~~ **(h)** An employee may contribute to the deferred compensation plan established by the state under this chapter an amount other than the amount described in subsections (d) through ~~(f)~~ **(g)** by affirmatively choosing to contribute:

(1) a higher amount;

(2) a lower amount; or

(3) zero (0).

SECTION 4. IC 11-10-6-12 IS ADDED TO THE INDIANA CODE

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AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. An offender employed in accordance with this chapter is subject to IC 22-2-5-3 and IC 22-2-9-8.**

SECTION 5. IC 11-10-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any agreement entered into between the commissioner and a private person under this chapter must provide that an offender employed by a private person under this chapter will be paid at least the prevailing wage for that type of work as established by the department of workforce development, including applicable wage increases for overtime work.

(b) An offender may be employed under this chapter only on a voluntary basis and only after the offender has been informed of the conditions of the offender's employment.

(c) An offender employed under this chapter is not eligible for unemployment compensation benefits under workforce development laws.

(d) An offender employed in accordance with this chapter is subject to IC 22-2-5-3 and IC 22-2-9-8.

SECTION 6. IC 22-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~Farmers and those engaged in the business of agriculture and horticulture~~ **The following** shall be specifically exempt from the provisions of this chapter:

(1) Farmers and those engaged in the business of agriculture and horticulture.

(2) Criminal offenders in a facility operated by the department of correction (as established by IC 11-8-2-1) or operated by a private operator under contract with the department of correction.

SECTION 7. IC 22-2-9-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. Criminal offenders in a facility operated by the department of correction (as established by IC 11-8-2-1) or operated by a private operator under contract with the department of correction are specifically exempt from this chapter.**

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

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 248, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 248 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 248, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state pensions and wage payment and wage claims.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-3.5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. All benefits and assets in the defined contribution fund are exempt from levy, sale, garnishment, attachment, or other legal process, **except for a qualified domestic relations order.** However, a participant's benefits may be transferred to reimburse the state for loss resulting from the participant's criminal taking of state property if the board receives adequate proof of the loss. The loss must be proven by conviction of a felony or misdemeanor.

SECTION 2. IC 2-3.5-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A participant or beneficiary may not assign any payment under this chapter except for:

(1) premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency; ~~and~~

(2) dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired participants in the legislators' defined benefit plan; **or**

(3) a payment made under a qualified domestic relations

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order.".

Page 3, after line 18, begin a new paragraph and insert:

"SECTION 4. IC 11-10-6-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. An offender employed in accordance with this chapter is subject to IC 22-2-5-3 and IC 22-2-9-8.**

SECTION 5. IC 11-10-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any agreement entered into between the commissioner and a private person under this chapter must provide that an offender employed by a private person under this chapter will be paid at least the prevailing wage for that type of work as established by the department of workforce development, including applicable wage increases for overtime work.

(b) An offender may be employed under this chapter only on a voluntary basis and only after the offender has been informed of the conditions of the offender's employment.

(c) An offender employed under this chapter is not eligible for unemployment compensation benefits under workforce development laws.

(d) An offender employed in accordance with this chapter is subject to IC 22-2-5-3 and IC 22-2-9-8.

SECTION 6. IC 22-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~Farmers and those engaged in the business of agriculture and horticulture~~ **The following** shall be specifically exempt from the provisions of this chapter:

(1) Farmers and those engaged in the business of agriculture and horticulture.

(2) Criminal offenders in a facility operated by the department of correction (as established by IC 11-8-2-1) or operated by a private operator under contract with the department of correction.

SECTION 7. IC 22-2-9-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. Criminal offenders in a facility operated by the department of correction (as established by IC 11-8-2-1) or operated by a private operator under contract with the department of correction are specifically exempt from this chapter.**

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SECTION 8. **An emergency is declared for this act.**".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 248 as printed January 25, 2013.)

GUTWEIN, Chair

Committee Vote: yeas 12, nays 1.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 248 be amended to read as follows:

Page 1, line 11, after "Sec. 10." insert "**(a)**".

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"**(b) A participant bears the costs, as determined by the board, related to the defined contribution fund's payment made under a qualified domestic relations order under subsection (a)(3).**".

(Reference is to ESB 248 as printed March 22, 2013.)

BURTON

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